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IN THE SUPREME COURT BY RONALD G. CARPENTER
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88731-4

IN RE THE PERSONAL RESTRAINT

OF


DERON ANTHONY PARKS

PERSONAL RESTRAINT PETITION

Deron Anthony Parks

Pro Se Petitioner
P.O. Box 769
Connell, WA 99326-0769

4-23-2013
PAYMENT OF FILING
FEE WAIVED


Susan L. Carlson
Supreme Court Deputy Clerk

A. STATUS OF PETITIONER

I, Deron A. Parks, #344051, Coyote Ridge Corrections Center, P.O. Box 769, Connell, WA 99326-0769, apply for relief from my judgment and sentence. After a jury trial I was sentenced to a total 102 months confinement in prison for one count of rape in the second degree. I am currently incarcerated at Coyote Ridge Corrections Center (CRCC) pursuant to my conviction, judgment, and/or sentence.

1. The court in which I was sentenced is Clark County Superior Court, No. 10-1-01215-0.

2. I was convicted following a jury trial for one count of rape in the second degree.

3. The judgment and sentence was entered on November 19, 2010. The judge who imposed the judgment and sentence was Clark County Superior Court Judge Barbara D. Johnson.

4. My trial counsel in the Superior Court was Suzan L. Clark.

5. I did appeal from the decision of the trial court to the Court of Appeals, Division Two, Cause No. 41534-8-II. In affirming my conviction, the Court of Appeals stated, inter alia, that when my appellate counsel raised the issue that improper opinion testimony relayed from the alleged victim's mother by Officer Sandra Aldridge affected my right to an impartial jury under the Washington State Constitution, and United States Constitution 6th Amendment, my trial counsel's "hearsay objection" to Aldridge's testimony, did not "preserve that issue on appeal" "on the specific ground of the evidentiary objection made at trial", and consequently, the issue was "waived" for appeal unless the party raising the issue can show "a manifest error affecting a

constitutional right" pursuant to RAP 2.5(a).

6. My appellate counsel on appeal was John A. Hays.

7. This Personal Restraint Petition follows.

B. GROUNDS FOR RELIEF

I have the following reasons for this Court to grant me relief from my judgment and sentence described in Part A.

First Ground

1. I should have my conviction for rape in the second degree reversed and/or vacated because my trial attorney violated my right to effective assistance of counsel under the United States Constitution 6th Amendment when she, inter alia, failed to adequately investigate my only exculpatory defense and contact, interview, subpoena, and/or call my alibi witnesses (James Lee Hettrick, Kristofer James Bay, and Richard Rolph), to testify in support of that defense after my repeated requests to do so specifically regarding the alleged victim's, Christopher Allan Thomas, motive and threat to lie against me if I reported to local police that the alleged victim, whom I also confronted among others, had participated in the burglary of numerous high value items taken from my home and wanted to protect his brother and friend who had also participated in the burglary of my home. Which I did report to local authorities, apparently to no avail. In addition, inter alia, my alibi witnesses would have given exculpatory testimony as to my last known whereabouts and/or movements on the date and/or during the time of the alleged event in question and contrary to the assertions of the alleged victim.

2. The following facts are important when considering my case:

In the Fall of 2008, petitioner resided with his girlfriend of eight years in the Salmon Creek area of Vancouver, Washington. VRP 102. Petitioner, a middle aged African American man, had lived and worked in Clark County at that time for a little over 10 years. Id. That Fall petitioner and his girlfriend of eight years separated and petitioner went looking for a new residence. VRP 103. Petitioner also had a friend named "T" that he had met while he lived in the Salmon Creek area over a five year period. Id. Eventually, petitioner found a new place to reside in the Burton area of Vancouver. VRP 104. During this time petitioner, while exercising his dog at a park called State Park near his new residence, met and befriended three young white adolescent men named, Zachary "Scotty" Thomas, his older brother Christopher Allan Thomas, and their friend Timothy Delisle. Id.; VRP 30 and 33; Notarized Declaration of Richard Rolph.

These three young white men, Zachary "Scotty" Thomas, Christopher Allan

Thomas, and Timothy Delisle, were "malicious juvenile delinquents repeatedly in trouble with the juvenile criminal justice system, and, repeatedly facing progressively stiffer and/or harsher punishments for their recidivism prior to the rape allegations made against petitioner. VRP 20-24; CP 18A (Motions in Limine, 3 pages). The three young men often committed their offenses together and/or in pairs. Id.

Additionally, the alleged victim, Christopher Allan Thomas, had a severe addiction to serious narcotics, most likely opiate type, oxy-cotton and vicodin, that required repeated, extensive, and lengthy impatient treatment stays on his behalf. Notarized Declaration of James Lee Hettrick; VRP 61, 68, 88-89.

In addition to repeatedly seeing the three young men at Skate Park while running his dog, "Scotty" and "Tim" would frequent petitioner's friend "T's" (actually "Tyler's") home before petitioner's move to the Burton area, and while petitioner was also visiting. VRP 105, 110, 113-114; Notarized Declaration of Richard Rolph.

Then sometime in December of 2008, while petitioner was attending a party at "T's" with many other friends, the alleged victim, Christopher Allan Thomas (herein after Chris), called petitioner and asked if he could come over to Tyler's and "hang out" to celebrate his birthday. VRP 110-111, 117. Before arriving at the party at around 8:30 pm to 9:30 pm, Chris, took some "oxy and vicodin". Notarized Declaration of James Lee Hettrick; VRP 111. While at the party, Chris, acted oddly "quiet", sitting down by himself and not really talking to anyone. VRP 112; Notarized Declaration of Kristofer James Bay; Notarized Declaration of James Lee Hettrick. And, according to Chris trial testimony, except for maybe some marijuana, he never took any drugs before he went to the party, however, he did consume six or more light beers that caused him to become very intoxicated and eventually pass out. VRP 70-73, 89-90.

At around 10:30 pm, petitioner's friends Kristofer James Bay and James Lee Hettrick gave petitioner a ride to a bar called "Mojo's" to meet some friends and play pool. VRP 111-112; Notarized Declaration of Kristofer James Bay; Notarized Declaration of James Lee Hettrick. However, Chris testified that "D" "was still in the room with [him] when [he] passed out[.]" VRP 73. Yet petitioner said Chris was awake as he left. VRP 112. And as petitioner left, Tyler allowed Chris to stay over. Notarized Declaration of Kristofer James Bay; Notarized Declaration of James Lee Hettrick.

After Kristofer and James had dropped petitioner off at "Mojo's", at around 2:00 am that morning, Kristofer called petitioner, and petitioner had informed him that petitioner had made it home okay. Notarized Declaration of Kristofer James Bay. At around 10:30 am that some morning, petitioner returned to "T's" house for the first time since he left the party. VRP 112-113.

Around February 1, 2009, petitioner moved into his new residence on 86th and Burton. VRP 105-106; Notarized Declaration of Kristofer James Bay. And,

Christopher Allan Thomas, Zachary "Scotty" Thomas, and Tim Delisle were frequent visitors at petitioner's new residence up until the day his home was burglarized on or about February 16, 2009, and despite the alleged "rape" of Chris by petitioner several weeks before at Tyler's house. VRP 79-80, 85-86, 106-107, 114-115; Notarized Declaration of Kristofer James Bay; Notarized Declaration of James Lee Hettrick.

Then on or about February 16, 2009, petitioner discover's that his new residence on Burton has been burglarized and he's missing a high value Bose surround stereo system and watch collection. VRP 108-109; Notarized Declaration of Deron Anthony Parks. On or about February 17, 2009, petitioner reported the burglary of his home to an Officer Deanna Watkins. Notarized Declaration of Deron Anthony Parks. On or about February 18, 2009, after being informed by his neighbor that the neighbor had seen and recognized at least 2 young white males as friends of petitioner whom had burglarized petitioner's home, petitioner, called Officer Watkins and initially informed her that "Tim" and "Scotty" were the ones who had burglarized his home. Notarized Declaration of Deron Anthony Parks. However, after further investigation by petitioner himself and a confrontation with Chris, Scotty, and Tim at Skate Park about them burglarizing his home, and they "all" eventually admitting it, petitioner specifically remembers calling Officer Watkins, who did not answer, but leaving a message to her that there were actually "three" perpetrators that had burglarized his home, Chris, Scotty, and Tim, because they "all" had admitted it to him in a confrontation with him at Skate Park. Notarized Declaration of Deron Anthony Parks; VRP 109.

Inexplicably however, when it came to securing Officer Watkin's critical and potentially exculpatory and/or impeachable testimony about, inter alia, whether petitioner actually reported Chris as one of the perpetrators of the burglary of his home, whether Officer Watkins ever questioned Chris, Tim, and/or Scotty about the burglary of petitioner's home, and if not, why not, and if so, "when" did that questioning occur and "what" was the response as to each alleged perpetrator, because the "timing" and/or "answers" as to Chris and/or Tim's questioning, specifically, were critical to evaluate whether such questioning had prompted either of them to carry out their alleged "threat" to make petitioner's life miserable if he reported their participation in the burglary, realized by allegations of "molestation" by Tim and/or "rape" by Chris against petitioner, and/or whether Officer Watkins ever confronted either Chris, Tim, and/or Scotty about the burglary of petitioner's home specifically during, and/or after their mutual May 5, 2009, 2nd degree assault arrests and/or convictions, and if not, why not, and if so, "when", conveniently, Officer Watkins was allegedly too "difficult to contact" for petitioner's trial counselor. VRP 3. And unwittingly, petitioner, directed by his apparently deliberately ineffective trial counselor, signed a "Stipulation As To Admissibility And Facts" regarding Officer Watkins supposed anticipated testimony, that was not only patently inaccurate, but also inexcusably lacking the previously highlighted glaring, exculpatory and/or impeachable "omissions" critical to the jury's evaluation of Chris's credibility, petitioner's credibility, and/or petitioner's innocence. VRP 55-56; CP 18E (Stipulation As To Admissibility And Facts, 2 pages).

Again, according to Chris's own trial testimony during cross-examination, the police at some point between the burglary of petitioner's home on February 16, 2009, and/or the October 1, 2009 reporting of Chris's allegations of "rape" against petitioner, "reported [the burglary] to [Chris]". VRP 86. And, Chris denied that petitioner had ever confronted him with Tim and Scotty at Skate Park about burglarizing petitioner's home, because, "[he] wasn't there". Id. However, again inexplicably, petitioner's trial counsel failed to ask Chris "when" did the police contact and/or "inform" him about the burglary, and, "which" police officer it was that "reported" the burglary to him. VRP 86-87. Additionally on cross, Chris, while denying his own participation in the burglary, admitted telling the police that Tim and Scotty were involved, yet again, inexplicably, petitioner's trial counsel failed to ask Chris "when" he reported this to the police, and "which" police officer was it he told. Id. Whereas, the State on cross-examination of petitioner, took extreme advantage of these glaring omissions by petitioner's counsel to reinforce Chris's versions of events by pointing out to petitioner and the jury that it was highly unlikely that Chris participated in the burglary of petitioner's home, and/or ever threatened petitioner about revealing Chris's participation since, "eight months" went by without either Chris and/or Tim being contacted by police and/or suffering any perceived consequences between that time frame from the report of the burglary, that would trigger their efforts to retaliate with false accusations against petitioner. VRP 118.

Yet, in addition to Chris, Tim, and Scotty actually "all" admitting that they had burglarized petitioner's home during the confrontation at Skate Park, petitioner maintained that they "all" had also threatened to "mess up [petitioner's] life" if petitioner reported them as being the actual burglars of petitioner's home. VRP 109, 118; Notarized Declaration of Deron Anthony Parks. More specifically, in the circle of people around petitioner, Chris, Tim, and/or Scotty, during the time of the events in question, not only was it well known and/or circulated among these people that pertinently, Chris and Tim had threatened petitioner with false allegations regarding the burglary of his home, but several of these people actually and personally heard Chris and/or Tim say that they would say that "Deron" raped them if "Deron" reported them to police as the burglars of his home. Notarized Declaration of James Lee Hettrick; Notarized Declaration of Kristofer James Bay; Notarized Declaration of Deron Anthony Parks.

More importantly, petitioner, repeatedly and substantially prior to trial, asked his trial counselor to no avail to contact, interview, and/or call Kristofer James Bay, James Lee Hettrick, and Richard Rolph among others, to testify as to, inter alia, the events of December, 2008 during the party at Tyler's house where at least Kristofer and James were present to witnessed those events, and, where both Kristofer and James later actually personally heard the threats made against petitioner by Chris, Tim, and Scotty regarding petitioner reporting their burglary of petitioner's home to police. Notarized Declaration of Deron Anthony Parks.

Moreover, Kristofer James Bay and James Lee Hettrick both had expressed their willingness to have testified at petitioner's trial regarding their

personal knowledge and/or observations of the events of December, 2008 during the party at Tyler's house, and/or the admissions by Chris, Tim, and Scotty regarding their threats against petitioner for reporting their burglary of petitioner's home to police, yet, they were never contacted by petitioner's trial counselor, her investigator, and/or any police officer. Notarized Declaration of James Lee Hettrick; Notarized Declaration of Kristofer James Bay.

And again, as far as Chris's "motivation" was concerned for falsely accusing petitioner of "rape", rather than adequately investigate petitioner's assertion that this was done in retaliation for petitioner reporting Chris's participation in the burglary by, inter alia, at least making sure that the jury knew exactly "when" the police first questioned either Chris and/or Tim about the burglary of petitioner's home, and "who" were the police that made that contact, because that contact should have shown "when" Chris and/or Tim came to believe that they were going to be arrested, charged, and/or prosecuted over that burglary, and/or suffer any actual and/or perceived probationary consequences over that burglary, triggering their retaliatory efforts against petitioner, especially in Chris's case, the closer that contact was to the that October 1, 2009 "rape" report date, and/or by calling petitioner's witnesses mentioned above to testify, "all", in order to substantiate petitioner's version of events, counsel instead, again incompetently supported the State's version by, inter alia, focusing on Chris's then apparent desire to be free from his then current inpatient drug treatment and/or probation time around the October 1, 2009 "rape" report date to infer that "motive" on Chris's part, while leaving herself helpless to explain to petitioner's jury, and/or during her cross of Chris, the lack of consequences for Chris between the February 16, 2009 burglary and October 1, 2009 "rape" report time frame for Chris's and/or Tim's alleged participation in the burglary of petitioner's home. VRP 86-89, 91-92, 118 (Note: During counsel's cross of Chris, Chris at VRP 86 stated that the "cops reported" the burglary to him, but later at VRP 91 he stated that the police "never" talked to him about the burglary, and petitioner's counsel never attempted to resolve this glaring contradiction for the benefit of petitioner's jury???); CP 1 (Information, 2 pages).

Because he knew his "molestation" allegations against petitioner were a lie, Tim Delisle, had the decency to not completely carry out his malicious hoax, and recanted those allegations before they could cause petitioner significant additional harm. VRP 6-8; 12-19; CP 1 (Information, 2 pages). And while Tim Delisle "testified" essentially to "recanting" his allegations of "molestation" against petitioner, petitioner's trial counsel, again inexcusably failed to, inter alia, ask Tim during her cross-examination if Christopher Allan Thomas participated in the February 16, 2009 burglary of petitioner's home, while Mr. Delisle was under oath and available for testimony. VRP 18-19. And if Mr. Delisle for some reason, could not have been questioned at that time, and/or was reluctant to answer that particular question about Chris's participation in the burglary, then petitioner's trial counsel failed to secure Mr. Delisle's potential explosive impeachment testimony for rebuttal purposes against Chris's testimony, by informing Mr.

Delisle during such rebuttal that Chris had already informed the police that Mr. Delisle had participated in the burglary of petitioner's home, presumptively prompting Mr. Delisle to tell the truth about whether Chris had done the same. VRP 18-19, 86-87; CP 1 (Information, 2 pages). Moreover, the jury was already aware of Mr. Delisle's and/or the State's "indecent liberties" allegations against petitioner, so there would have been no prejudice and/or harm to petitioner had Mr. Delisle impeached and/or rebutted Chris about Chris's participation in the burglary of petitioner's home. VRP 24-25.

Finally, when Officer Sandra Aldrige testified that Chris's mom, Deborah Thomas, believed her son had been "sexually assaulted" by petitioner, petitioner's trial counsel, again incompetently failed to object to that testimony on the proper grounds that the testimony was impermissible opinion testimony that violated petitioner's federal constitutional rights to an impartial jury. VRP 97. Additionally, petitioner's trial counsel also incompetently failed to request the trial court to strike that testimony, and/or give a curative instruction on the same grounds. *Id.*

3. The following arguments and reported court decisions in cases similar and/or virtually identical to mine show the error(s) I believe happened in my own case:

In Howard v. Clark, 608 F.3d 563, 565, 571 (9th Cir. 2010), the court held that counsel rendered ineffective assistance in failing to interview and/or call surviving victim of shooting to elicit testimony at trial that was exculpatory to his client. Similarly, in Gomez v. Beto, 462 F.2d 596, 597 (5th Cir. 1972), the court found that "when a defense counsel fails to investigate his client's only possible defense, although requested to do so by him; and fails to subpoena witnesses in support of the defense, it can hardly be said that the defendant has had the effective assistance of counsel." While in Hart v. Gomez, 174 F.3d 1067, 1069-70 (9th Cir. 1999), the court found that, "[a] lawyer who fails adequately to investigate, and to introduce into evidence, records that demonstrate his client's factual innocence, or raise sufficient doubt as to that question to undermine confidence in the verdict, renders deficient performance." Also, in Thomas v. Lockhart, 738 F.2d 304, 308 (9th Cir. 1984), the court held that counsel rendered ineffective assistance by relying exclusively on the prosecution's investigation file even though his client provided him with information casting doubt on the prosecution's evidence. Additionally, in Brown v. Myers, 137 F.3d 1154 (9th Cir. 1998), the court held that the petitioner was prejudiced by his attorney's ineffectiveness in failing to contact or elicit trial testimony from alibi witnesses. Furthermore, in Rios v. Rocha, 299 F.3d 796, 805 (9th Cir. 2002), the court found that the failure by defense counsel to investigate potentially exculpatory evidence is deficient performance. Identically, in Sanders v. Ratelle, 21 F.3d 1446, 1457 (9th Cir. 1994), the court stated that failure to investigate by defense counsel amounted to ineffective assistance of counsel. Moreover, in Smith v. Stewart, 189 F.3d 1004 (9th Cir. 1999), the court stated that a defense counsel's failure to call witnesses that effectively supported defendant's defense was ineffective

assistance. Similarly, in Lord v. Wood, 184 F.3d 1083 (9th Cir. 1999), the court held that defense counsel's failure to call, or personally interview, three witnesses that could supply potentially exculpatory testimony on behalf of the defendant constituted ineffective assistance of counsel. While, in Avila v. Galaza, 297 F.3d 911, 918-20 (9th Cir. 2002), the court noted that, "[T]he fact that a witness might not appear credible at trial is not a reasonable basis for failing 'to identify or attempt to interview' him." And finally, in State v. Sherwood, 71 Wn.App. 481, 484, 860 P.2d 407 (Div. 2 1993), the court stated that for a failure to call witnesses to amount to ineffective assistance of counsel, that failure must have been unreasonable and must result in prejudice, or create reasonable probability that, had lawyer presented witnesses, outcome of trial would be different.

Here, in petitioner's instant case, as in Howard, Gomez, Hart, Thomas, Brown, Rios, Sanders, Smith, Lord, Avila, and more than exceeding the criteria set out in Sherwood, petitioner's trial counsel failed to adequately investigate petitioner's only exculpatory defense, and, contact, interview, subpoena, and/or call petitioner's alibi witnesses, James Lee Hettrick, Kristofer James Bay, and/or Richard Rolph to, inter alia, testify in support of that defense after petitioner's repeated requests to do so regarding Chris's motive and threats to lie against petitioner if petitioner reported to police that Chris among others had burglarized his home.

As a first step, petitioner's trial counselor could have used Richard Rolph's offered testimony to refute and/or impeach Chris's testimony on cross-examination that he never knew petitioner had a dog, and/or for that matter, ever seen petitioner run his dog over at Skate Park. VRP 93-94; Notarized Declaration of Richard Rolph.

Second, petitioner's trial counsel could have used James Lee Hettrick's offered testimony to refute and/or impeach Chris's cross that he did not take any drugs before he went to the party at "T's" the night of the event in question, where in fact Mr. Hettrick personally heard Chris admit to taking some "oxy and vicodin" before he came over to the party. VRP 89-90; Notarized Declaration of James Lee Hettrick; ER 801 (d)(2)(i)(Admission by Party-Opponent); ER 804 (b)(3)(Statement Against Penal Interest); State v. Lair, 95 Wn.2d 706 (1981).

Third, petitioner's trial counsel could have used Kristofer's and James's offered testimonies to corroborate petitioner's testimony that petitioner at around 10:30 pm, left "T's" party to go to a bar called "Mojo's" while Chris was still awake, and/or more importantly, impeach Chris's testimony that "D" "was still in the room with [him] when [he] passed out[.]" VRP 73, 111-112; Notarized Declaration of Kristofer James Bay; Notarized Declaration of James Lee Hettrick.

Fourth, petitioner's trial counsel could have used Kristofer James Bay's offered testimony to show that around 2:00 am that late night morning of the event in question, Kristofer called petitioner to confirm that petitioner had made it back to his home that morning. Notarized Declaration of Kristofer

James Bay.

Fifth, petitioner's trial counsel could have used Kristofer James Bay's offered testimony to corroborate petitioner's testimony, and/or refute and/or impeach Chris's cross denying, that petitioner had confronted Chris among others about burglarizing his home and Chris and the others admitting to doing it. VRP 86, 109; Notarized Declaration of Kristofer James Bay; ER 801 (d)(2)(i)(Admission by Party-Opponent); ER 804 (b)(3)(Statement Against Penal Interest); State v. Lair 95 Wn.2d 706 (1981); ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy); State v. Flores, 164 Wn.2d 1, 8, 186 P.3d 1041 (2008).

But sixth, and most importantly, petitioner's trial counsel could have used James Lee Hettrick's and Kristofer James Bay's offered testimonies to corroborate petitioner's testimony and cross, that Chris, among others personally threatened to, "mess up [petitioner's] life", and/or say that petitioner "raped" him, if petitioner reported Chris among others as burglarizing his home. VRP 109, 118; Notarized Declaration of James Lee Hettrick; Notarized Declaration of Kristofer James Bay; Notarized Declaration of Deron Anthony Parks; ER 801 (d)(2)(i)(Admission by Party-Opponent); ER 804 (b)(3)(Statement Against Penal Interest); State v. Lair, 95 Wn.2d 706 (1981); ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy); State v. Flores, 164 Wn.2d 1, 8, 186 P.3d 1041 (2008).

Consequently, in light of "all" the aforementioned, it should be clear, that: (1) Petitioner's trial counsel was constitutionally and/or factually deficient and ineffective in failing to, inter alia, secure the offered testimonies of James Lee Hettrick, Kristofer James Bay, and Richard Rolph in support of petitioner's only viable and/or exculpatory defense, Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); (2) Petitioner's trial counsel was constitutionally and/or factually prejudicial and ineffective in failing to secure the aforementioned offered testimonies for petitioner's jury's consideration, because had petitioner's jury been allowed to hear and consider the aforementioned testimonies, there was a reasonable probability that the outcome of petitioner's trial would have been different, inter alia, Strickland, supra; and (3) Petitioner's trial counsel's decision to not use these aforementioned offered testimonies could not have been the result of "reasonable" trial tactics and/or strategy because she also failed to even, identify, contact and/or interview the aforementioned witnesses, despite petitioner's repeated and urgent request to do so, in order to ascertain the manifest significance of the aforementioned offered testimonies for petitioner's only viable and/or exculpatory defense, Strickland, supra; Jones v. Wood, 114 F.3d 1002, 1011 (9th Cir. 1997)(trial tactics and/or strategy has to be "reasonable" in order to excuse ineffective assistance of counsel); Howard, supra; Avila, supra.

4. The following statutes, court rules, and/or federal constitutional provisions should be considered by this court:

6th Amendment Right To Effective Assistance of Counsel

ER 801 (d)(2)(i)(Admission by Party-Opponent)

ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy)

ER 804 (b)(3)(Statement Against Penal Interest)

5. This petition is the best way I know to get the relief I want and no other way will work as well because a personal restraint petition appears to be the only appropriate remedy available under Washington law to address this matter.

Second Ground

1. I should have my conviction for rape in the second degree reversed and/or vacated because my trial attorney violated my right to effective assistance of counsel under the United States Constitution 6th Amendment when she, *inter alia*, failed to question recanting alleged "indecent liberties" victim, Timothy Delisle, during her cross-examination whether alleged "rape" victim, Christopher Allan Thomas, participated in the burglary of my home, while Mr. Delisle was under oath and available for testimony, notwithstanding the fact that he testified outside the presence of the jury. Furthermore, my trial counsel was also ineffective for failing to secure Mr. Delisle's potentially explosive future impeachment testimony in front of the jury, in order to specifically refute Chris's testimony on cross-examination that he did not participate in the burglary of my home, by asking Mr. Delisle did he know that Chris had already informed police that Mr. Delisle had participated in the burglary of my home, presumptively prompting Mr. Delisle to tell the truth about whether Chris had done the same. But just as importantly, my trial counsel was additionally ineffective for failing to make sure that my jury was specifically aware that Mr. Delisle had "recanted" his indecent liberties allegations against me for, *inter alia*, any favorable reasons and/or inferences she could have drawn on my defense's behalf in her closing arguments to my jury, and/or to more effectively refute and/or impeach Chris's "denial" about burglarizing my home, and/or Chris's "rape" testimony against me.

2. The following facts are important when considering my case:

Because he knew his "indecent liberties" allegations against petitioner were a malicious lie, Tim Delisle, had the decency to not carry out and complete his initial threat, and recanted the allegations right before they could do petitioner significant additional damage. VRP 6-8, 12-19; CP 1 (Information, 2 pages). And while Tim essentially testified to recanting his indecent liberties allegations against petitioner, petitioner's trial counselor, again inexcusably failed to, *inter alia*, ask Tim during her cross-examination if Christopher Allan Thomas participated in the burglary of petitioner's home, while Tim was under oath and available for testimony. VRP 18-19. And despite the fact that Tim was compelled to testify outside the presence of the jury as a result of petitioner's counsel's "offer of proof"

demand in order for the State to sustain, inter alia, the indecent liberties count against petitioner, petitioner's counsel failed to secure Tim's potential future impeachment testimony against Chris's denial that he had personally participated in the burglary of petitioner's home, by asking Tim if he knew that Chris had already informed police that Tim and Scotty had participated in the burglary of petitioner's home, presumptively prompting Tim to tell the truth about whether Chris had actually done the same. VRP 5-20, 86-87; CP 1 (Information, 2 pages). Additionally, petitioner's trial counsel also failed to specifically reveal to petitioner's jury that Tim had "recanted" his "indecent liberties" allegations against petitioner, and use that fact, and/or any favorable inferences drawn therefrom, to more effectively impeach and/or refute Chris's "rape" allegations against petitioner, and/or Chris's "denial" testimony about participating in the burglary of petitioner's home, especially but not exclusively during counsel's closing arguments to the jury. VRP 5-20, 73-77, 141-145; CP 1 (Information, 2 pages). Moreover, the jury was already aware of Tim's indecent liberties allegations against petitioner, so there would not have been any actual and/or realistic prejudice to petitioner's defense had Tim's potential impeachment testimony and/or "recantation" revelation been used to impeach Chris's burglary denial and/or rape allegation. VRP 24-25.

3. The following arguments and reported court decisions in cases similar and/or virtually identical to mine show the error(s) I believe happened in my own case:

All the cases and/or arguments cited in the previous ground are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

In Avila v. Galaza, 297 F.3d 911, 918-24 (9th Cir. 2002), the court found that the performance of the defense counsel, in a prosecution for attempted murder with the use of a firearm, was deficient where counsel failed to investigate or introduce at trial that the defendant's brother was the shooter, despite numerous indications that the brother might have been the shooter, and, despite counsel's belief that the brother was the shooter; defendant's mother as much as told defense counsel that defendant's brother was the shooter, and defendant's prior counsel told counsel he thought he knew who the shooter was, yet counsel failed to question either the mother or prior counsel, and counsel failed to identify numerous potential eyewitnesses to the shooting, and even failed to interview or call as a witness, one person who told counsel she saw who shot the victim.

Similarly, in Richter v. Hickman, 578 F.3d 944 (9th Cir. 2009), the court found ineffective assistance of counsel where the central dispute between the prosecution and defense was the victim's location when he was shot, and forensic evidence could have corroborated or discredited petitioner's account, expert testimony could have established reasonable doubt, and defense presented no evidence to support its version of events, other than petitioner's testimony.

Here, in petitioner's instant case, as in Avila, petitioner's counsel's "failure to question" Tim about whether Chris participated in the burglary of petitioner's home, "knowing" that Tim was armed with that knowledge and available to provide it, was analogous to Avila's counsel's failure to question either Avila's mother and/or prior counsel as to whether Avila's brother was the actual shooter of the victim, "knowing" that they were armed with that knowledge and ready to provide it, and was therefore patently inexcusable. Avila, supra; ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy); ER 801 (d)(2)(i)(Admission by Party-Opponent); ER 804 (b)(3)(Statement Against Penal Interest); Flores, supra; Lair, supra.

Similarly here, in petitioner's instant case, as in Richter, petitioner's counsel's "failure to question" Tim about whether Chris participated in the burglary of petitioner's home, the "central dispute" between petitioner and Chris, was analogous to Richter's counsel's failure to question a forensic expert about the victim's location when he was shot, the "central dispute" between Richter and his alleged victim, and again, was therefore patently inexcusable. Richter, supra; ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy); ER 801 (d)(2)(i)(Admission by Party-Opponent); ER 804 (b)(3)(Statement Against Penal Interest); Flores, supra; Lair, supra.

Additionally, petitioner's counsel's failure to specifically "reveal" to petitioner's jury, that Tim had essentially "recanted" his "indecent liberties" allegation against petitioner, and thereby under Avila and Richter respectively, infer some "guilty knowledge" on Tim's part, in order to cast a genuine shadow of doubt on Chris's sexual assault allegations against petitioner, and/or give some impetus and credibility to petitioner's "central dispute" burglary claim against Chris, also was patently inexcusable. Avila, supra; Richter, supra.

Moreover, petitioner's trial counselor could have used Tim's anticipated testimony about Chris's participation in the burglary of petitioner's home, and/or reasonable inferences from Tim's recantation (such as Tim's and Chris's conspiratorial "pact", that Tim broke, to say that petitioner sexually assaulted them if he reported them as burglars of his home, and/or potential consequences therefrom), to corroborate petitioner's version of events, and/or impeach Chris's version of events, during her questioning of petitioner, her cross of Chris, and/or her closing arguments to petitioner's jury. VRP 86, 109, 118.

Consequently, in light of "all" the foregoing, it should be clear, that: (1) Petitioner's trial counsel was constitutionally and/or factually deficient and ineffective in failing to, inter alia, question Tim about whether Chris participated in the burglary of petitioner's home, and/or specifically "reveal" to petitioner's jury that Tim had essentially "recanted" his "indecent liberties" allegations against petitioner, Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); (2) Petitioner's trial counsel was constitutionally and/or factually prejudicial and

ineffective in failing to, inter alia, secure Tim's potential impeachment testimony about the "central dispute" burglary claim against Chris, and/or advance the reasonable inferences derived from Tim's "recantation", for petitioner's jury's consideration, because had petitioner's jury been allowed to hear Tim's potential impeachable testimony, and/or hear reasonable inferences as to why Tim recanted his "indecent liberties" allegations against petitioner, there was a reasonable probability that the outcome of petitioner's trial would have been different, inter alia, Strickland, supra; and (3) Petitioner's trial counsel's failure to ask Tim about whether Chris participated in the burglary of petitioner's home and secure Tim's potential impeachment testimony for the jury to hear, and/or specifically "reveal" to petitioner's jury that Tim had "recanted" his "indecent liberties" allegation against petitioner while arguing all reasonable inferences drawn therefrom, was not the result of any "reasonable" trial tactics and/or strategy because, respectively, notwithstanding her brief "controversial" interview with Tim right before trial started, she presented no other evidence and/or testimony to petitioner's jury to support petitioner's version of events, other than petitioner's testimony, and Tim's potential "central dispute" burglary impeachment testimony was the "only other" potential testimony and/or evidence available at the time for petitioner's jury to consider, and/or since the jury was already aware of Tim's "indecent liberties" allegation against petitioner, there would not have been any actual and/or realistic prejudice to petitioner's defense had petitioner's counsel specifically "revealed" to petitioner's jury that Tim had "recanted" his allegations. Strickland, supra; Jones v. Wood, 114 F.3d 1002, 1011 (9th Cir. 1997)(trial tactics and/or strategy has to be "reasonable" in order to excuse ineffective assistance of counsel); Howard, supra; Avila, supra; Richter, supra.

4. The following statutes, court rules, and/or federal constitutional provisions should be considered by this court:

6th Amendment Right To Effective Assistance of Counsel

ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy)

ER 801 (d)(2)(i)(Admission by Party-Opponent)

ER 804 (b)(3)(Statement Against Penal Interest)

5. This petition is the best way I know to get the relief I want and no other way will work as well because a personal restraint petition appears to be the only appropriate remedy available under Washington law to address this matter.

Third Ground

1. I should have my conviction for rape in the second degree reversed and/or vacated because my trial attorney violated my right to effective assistance of counsel under the United States Constitution 6th Amendment when

she, inter alia, essentially conspired with the State to "stipulate" to the "factual" testimony of Police Officer Deanna Watkins and not contact, interview, subpoena, secure, call, and/or question Officer Watkins about, inter alia, whether petitioner ever informed her and/or left a message for her that Chris was one of the burglars of his home, whether Officer Watkins ever questioned and/or confronted Chris among others about the burglary of petitioner's home, and if not, "why not", and if so, "when" did it occur, and "what" were the responses, because, without Officer Watkin's testimony and/or answers as to those questions, there was no way for the jury to know if Chris among others ever suffered and/or was threatened with any actual and/or perceived consequences for the "central dispute" burglary of petitioner's home, in addition to petitioner's counselor being "helpless" to respond to the State's repeated assertions and/or inferences during the cross-examination of petitioner and/or closing arguments, that since there was apparently a lack of consequences for Chris among others from the petitioner reporting their burglary of petitioner's home between February 16, 2009 and October 1, 2009, consequently for petitioner, then it is highly unlikely that Chris's among others "sexual assault" allegations against petitioner was a "motive" to, and/or prompted by, petitioner reporting Chris as one of the burglars of petitioner's home.

2. The following facts are important when considering my case:

All the "facts" cited in the previous two grounds are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

On or about February 16, 2009, petitioner discover's that his new residence on Burton has been burglarized and he's missing a high value Bose surround stereo system and watch collection. VRP 108-109; Notarized Declaration of Deron Anthony Parks. On or about February 17, 2009, petitioner reported the burglary of his home to an Officer Deanna Watkins. Notarized Declaration of Deron Anthony Parks. On or about February 18, 2009, after being informed by his neighbor that the neighbor had seen and recognized at least 2 young white males as friends of petitioner whom had burglarized petitioner's home, petitioner, called Officer Watkins and initially informed her that "Tim" and "Scotty" were the ones who had burglarized his home. Notarized Declaration of Deron Anthony Parks. However, after further investigation by petitioner himself and a confrontation with Chris, Scotty, and Tim at Skate Park about them burglarizing his home, and they "all" eventually admitting it, petitioner specifically remembers calling Officer Watkins, who did not answer, but leaving a message to her that there were actually "three" perpetrators that had burglarized his home, Chris, Scotty, and Tim, because they "all" admitted it to him in that confrontation with him at Skate Park. Notarized Declaration of Deron Anthony Parks; VRP 109.

Inexplicably however, when it came to contacting, interviewing, subpoenaing, securing, calling, and/or questioning Officer Watkins about whether petitioner "ever" informed her and/or left a message for her that Chris was one of the burglars of his home, and/or, inter alia, whether Officer Watkins ever confronted and/or questioned Chris among others about the

burglary of petitioner's home, and if so, when, Officer Watkins conveniently became too "difficult to contact" for petitioner's counselor. VRP 3. And because Officer Watkins was allegedly too "difficult to contact", the State "suspiciously" informed the trial court that the State and petitioner's trial counselor had probably agreed to stipulated testimony of Officer Watkins that would be "acceptable" to both parties. Id. Moreover, after being informed about the "probable stipulation" of Officer Watkins testimony, the trial court "slipped up" and started to ask petitioner's counselor if she had "interviewed" Officer Watkins, but quickly caught itself and changed the question to an incoherent one about "jury information statements". Id.

And unwittingly, petitioner, directed by his counselor, signed a "Stipulation As To Admissibility And Facts" regarding Officer Watkins supposed anticipated testimony, whereas the trial court read the misleading stipulation to petitioner's jury. VRP 53-56; CP 18E (Stipulation As To Admissibility And Facts, 2 pages).

According to Chris during cross-examination, between February 16, 2009 and October 1, 2009, some unspecified police "reported [the burglary] to [Chris]". VRP 86. Chris also admitted telling some unspecified police that Tim and Scotty were involved in the burglary of petitioner's home. VRP 86-87. However, again inexplicably, petitioner's counselor failed to ask Chris "when" did the police contact and/or "inform" him about the burglary, "who" was that police officer, and/or "when" did he tell the police about Tim and Scotty burglarizing petitioner's home and "who" was that police officer. Id.

During petitioner's cross-examination, the State informed petitioner and/or the jury that it was highly unlikely that Chris participated in the burglary of petitioner's home, and/or ever threatened petitioner about reporting Chris's participation since, "eight months" went by without Chris being contacted by police and/or suffering any visual and/or perceived consequences between January 16, 2009 and October 1, 2009 from the report of the burglary, that would trigger Chris's efforts to retaliate with false "sexual assault" allegations against petitioner. VRP 118. After that cross-examination of petitioner by the State, petitioner's counselor appeared "helpless" to respond and declined to re-direct testimony from petitioner. VRP 119.

During closing arguments, the State again hammers away at the argument that since there was an apparent lack of consequences for Chris, from the reporting by petitioner of Chris's participation in the burglary of petitioner's home between February 16, 2009 and October 1, 2009, then it is highly unlikely that Chris used the fact that petitioner reported him as one of the burglars as a motive to make false "sexual assault" allegations against petitioner. VRP 146-148.

3. The following arguments and reported court decisions in cases similar and/or virtually identical to mine show the error(s) I believe happened in my own case:

All the cases and/or arguments cited in the previous two grounds are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

In Howard v. Clark, 608 F.3d 563, 565, 571 (9th Cir. 2010), the court held that counsel rendered ineffective assistance in failing to interview and/or call a witness with testimony that was exculpatory to his client. Similarly, in Thomas v. Lockhart, 738 F.2d 304, 308 (9th Cir. 1984), the court held that counsel rendered ineffective assistance by relying exclusively on the prosecution's investigation file even though his client provided him with information casting doubt on the prosecution's evidence. Furthermore, in Rios v. Rocha, 299 F.3d 796, 805 (9th Cir. 2002), the court found that the failure by defense counsel to investigate potentially exculpatory evidence is deficient performance. And, in Richter v. Hickman, 578 F.3d 944 (9th Cir. 2009), the court found ineffective assistance of counsel where defense counsel failed to support its versions of events with evidence and/or testimony surrounding the "central dispute" between the State and the defense, other than the petitioner's testimony.

Here, in petitioner's instant case, as in Howard, Thomas, Rios, and/or Richter, petitioner's trial counsel failed to "interview" and/or "call" Officer Watkins about "potentially exculpatory" and/or impeachable evidence and/or testimony surrounding the "central dispute" between petitioner and Chris, the burglary of petitioner's home by Chris, the "investigation" thereof by Officer Watkins if any, and the actual and/or perceived consequences to Chris if any from that "investigation", apparently instead, choosing to rely exclusively on the "prosecution's file" and/or representation of Officer Watkins "stipulated" testimony, and petitioner's "sole testimony".

Petitioner's counselor could have used Officer Watkins "presence" and testimony to clear up the confusion and/or unanswered critical questions about whether she ever questioned Chris about the burglary of petitioner's home, and if not, "why not", and if so, "when", and "what" was his response, because, without Officer Watkins answers to those questions, there was no way for petitioner's counselor to effectively respond to the State's repeated assertions during the cross of petitioner and/or closing arguments that since there was an apparent lack of consequences for Chris's alleged burglary of petitioner's home between February 16, 2009 and October 1, 2009, then it was highly unlikely that Chris's sexual assault allegations against petitioner were prompted by being questioned and/or confronted by [Officer Watkins] as one of the burglars.

Additionally, Officer Watkins "presence" and/or answers to those questions mentioned above, could have also been used to contest the State's additional assertions during closing arguments that it was too "far fetched" to imagine that Chris's mom (Deborah Thomas), and/or Chris's brother's girlfriend (Mariah Flenory), could have conspired with Chris to get Chris out of any then current and/or potential troubles by sacrificing a middle aged "black man" to the "Clark County" police with a false allegation of sexual misconduct that Chris and/or his friends had already allegedly threatened the

man about doing over the burglary of the man's home, depending completely on whether these "white people" were so "racially insensitive" and/or capable to meticulously concoct and carry out such a "hoax" and/or "scheme", by pointing out that in "Clark County" and/or other parts of Washington State, that may not have been so "far fetched". VRP 135-148; See e.g., cases of victims by false accusers, law enforcement, and/or government workers regarding the "Wenatchee Sex Ring"; Green v. City of Wenatchee, 148 Wn.App. 351, 199 P.3d 1029 (Div. 3 2009); Roberson v. Perez, 156 Wn.2d 33, 123 P.3d 844 (2005); Gausvik v. Abbey, 126 Wn.App. 868, 107 P.3d 98 (Div. 2 2005); Everette v. Abbey, 108 Wn.App. 521, 31 P.3d 721 (Div. 2 2001); Rodriguez v. Perez, 99 Wn.App. 439, 994 P.2d 874 (Div. 1 2000); State v. Carol M.D., 97 Wn.App. 355, 983 P.2d 1165 (Div. 3 1999); Vasquez v. State, Dept. of Social and Health Services, 94 Wn.App. 976, 981, 974 P.2d 348 (1999); State v. Ralph Vernon G., 90 Wn.App. 16, 950 P.2d 971 (Div. 3 1998).

Consequently, in light of "all" the aforementioned, it should be clear, that: (1) Petitioner's trial counsel was constitutionally and/or factually deficient and ineffective in stipulating to the factual testimony of Officer Deanna Watkins, rather than calling and subpoenaing Watkins to be questioned about whether petitioner ever informed her that Chris participated in the "central dispute" burglary of his home, and/or did she ever question and/or confront Chris about the "central dispute" burglary of petitioner's home, and if so, "when", Strickland, supra; (2) Petitioner's trial counsel was constitutionally and/or factually prejudicial and ineffective in stipulating to the factual testimony of Officer Watkins rather securing Officer Watkins testimony about whether she ever received information by petitioner that Chris was also one of the burglars of his home, and/or whether she was the officer that either informed and/or questioned Chris about the burglary of petitioner's home, and/or the officer that received information from Chris that Tim and Scotty were the burglars of petitioner's home, and if so, "when" on "all" accounts, because had petitioner's jury heard and/or been allowed to consider the answers to these questions, among others to Officer Watkins, and/or had petitioner's trial counsel used the potential answers from Officer Watkins during the State's cross of petitioner and/or closing arguments to effectively refute the State's repeated assertions that since Chris apparently suffered no consequences between February 16, 2009 and October 1, 2009 from being reported by petitioner as one of the burglars of his home, then it was highly unlikely that Chris used that fact as motive to lodge false sexual assault allegations against petitioner, there was a reasonable probability that the outcome of petitioner's trial would have been different; Strickland, supra; and (3) Petitioner's trial counsel's decisions to stipulate to Officer Watkins factual testimony, and omit interviewing, questioning and/or probing her before the jury about, inter alia, whether petitioner ever reported Chris as one of the burglars of his home, and/or her investigation of the burglary of petitioner's home as mentioned above, was completely "inexcusable" because Officer Watkins was the officer in charge of "investigating" the "central dispute" between petitioner and Chris, among others surrounding the circumstances of the burglary of petitioner's home, and, her failure to even "interview" Officer Watkins about her investigation of the "central dispute" burglary of petitioner's home before she stipulated to Watkins testimony, was

not the result of reasonable trial strategy or tactics, moreover, even if she had interviewed Officer Watkins before she stipulated to Officer Watkins testimony and omitted having Officer Watkins testify about her investigation of the burglary of petitioner's home, her decision still would have been "inexcusable" since she also presented no other evidence and/or testimony to support petitioner's defense at the time other than petitioner's sole testimony, Strickland, supra; Jones, supra; Howard, supra; Avila, supra; Richter, supra; Reynoso v. Giurbino, 462 F.3d 1099 (9th Cir. 2007)(counsel's decision to not cross-examine witnesses about their motivation for testifying was not sound trial strategy).

4. The following statutes, court rules, and/or federal constitutional provisions should be considered by this court:

6th Amendment Right To Effective Assistance of Counsel

ER 801 (d)(2)(i)(Admission by Party-Opponent)

ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy)

ER 804 (b)(3)(Statement Against Penal Interest)

5. This petition is the best way I know to get the relief I want and no other way will work as well because a personal restraint petition appears to be the only appropriate remedy available under Washington law to address this matter.

Fourth Ground

1. I should have my conviction for rape in the second degree reversed and/or vacated because my trial attorney violated my right to effective assistance of counsel under the United States Constitution 6th Amendment when she, inter alia, failed to object, moved to strike, and/or request a curative instruction, to Officer Sandra Aldridge's testimony that Chris's mom, Deborah Thomas, believed her son Chris had been "sexually assaulted" by me, under the specific ground that the testimony was impermissible opinion testimony that violated my federal constitutional rights to an impartial jury.

2. The following facts are important when considering my case:

All the "facts" cited in the previous three grounds are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

When State witness, Officer Sandra Aldridge testified that Chris's mom, Deborah Thomas, believed her son had been "sexually assaulted" by petitioner, petitioner's trial counsel, again, incompetently failed to object, moved to strike, and/or request a curative instruction, to that testimony on the proper grounds that the testimony was impermissible opinion testimony that violated petitioner's federal constitutional rights to an impartial jury. VRP 97.

3. The following arguments and reported court decisions in cases similar and/or virtually identical to mine show the error(s) I believe happened in my own case:

All cases and/or arguments cited in the previous three grounds are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

In Earls v. McCaughtry, 379 F.3d 489, 494-96 (7th Cir. 2004), the court held that the defense counsel was ineffective in failing to object to impermissible opinion testimony regarding complainant's truthfulness and in failing to redact portions of videotape that contained a social worker's judgment concerning the events in question.

Similarly, in Martin v. Grosshans, 424 F.3d 588 (7th Cir. 2005), the court held that, inter alia, defense counsel was deficient for failing to object to irrelevant and impermissible opinion of a prosecution witness.

And finally, in State v. Kirkman, 159 Wn.2d 918, 926-27, 934-35, 155 P.3d 125 (2007), the court stated that impermissible testimony regarding a defendant's guilt may be reversible error because such evidence violates the defendant's constitutional right to a jury trial, which includes the independent determination of the facts by the jury, and, that the court had found constitutional error only when the error caused actual prejudice or practical and identifiable consequences.

Here, in petitioner's instant case, as in Earls, Martin, and more than exceeding the "practical and identifiable consequences" criteria set out in Kirkman, petitioner's counsel's failure to object, move to strike, and/or request a curative instruction to Officer Aldridge's testimony that Chris's mom believed her son Chris had been "sexually assaulted" by petitioner, under the specific ground that the testimony was impermissible opinion testimony that violated petitioner's federal constitutional right to an impartial jury, constituted ineffective assistance of counsel because, inter alia, since this was essentially a credibility contest between petitioner's version of events, and/or Chris's version of events, with no other evidence to support petitioner's version other than petitioner's sole testimony, Officer Aldridge's impermissible opinion testimony became substantive evidence and/or another witness that essentially corroborated Chris's version of events for the jury's consideration, and, effectively tipped the balance of the credibility contest between petitioner and Chris decidedly in the State's favor. Earls, supra; Martin, supra; Kirkman, supra; Richter v. Hickman, 578 F.3d 944 (9th Cir. 2009) (defense presented no evidence to support its version of events, other than petitioner's testimony); See also State v. Easter, 130 Wn.2d 228, 238-39, 922 P.2d 1285 (1990) ("A 'bell once rung cannot be unrung.'").

Consequently, in light of "all" the foregoing, it should be clear, that: (1) Petitioner's trial counsel was constitutionally and/or factually deficient and ineffective in failing to, inter alia, specifically object, move to strike, and/or request a curative instruction to Officer Aldridge's testimony

that Chris's mom, Deborah Thomas, believed her son Chris had been "sexually assaulted" by petitioner, Strickland, supra; (2) Petitioner's trial counsel was constitutionally and/or factually prejudicial and ineffective in failing to, inter alia, specifically object, move to strike, and/or request a curative instruction to Officer Aldridge's impermissible opinion testimony because since petitioner's trial was essentially a credibility contest between petitioner's version of events, and/or Chris's version of events, Officer Aldridge's impermissible opinion testimony effectively swayed the jury's verdict in favor of the State by becoming substantive evidence that manifestly corroborated Chris's version of events, whereas, had petitioner's jury not been subjected to that impermissible opinion testimony, and/or had petitioner's trial court gave a curative instruction to petitioner's jury to view that testimony with caution and not as corroborative and/or substantive evidence supporting Chris's version of events, there was a reasonable probability that the outcome of petitioner's trial would have been different, inter alia, Strickland, supra; Kirkland, supra; and (3) Petitioner's trial counsel's failure to, specifically object, move to strike, and/or request a curative instruction to Officer Aldridge's impermissible opinion testimony was not the result of any "reasonable" trial strategy and/or tactics since counsel also presented no other evidence and/or testimony to support petitioner's version of events other than petitioner sole testimony, Strickland, supra; Jones, supra; Howard, supra; Richter, supra; Earls, supra; Martin, supra.

4. The following statutes, court rules, and/or federal constitutional provisions should be considered by this court:

6th Amendment Right To Effective Assistance of Counsel

5th, 6th, and/or 14th Amendment(s) Right(s) To An Impartial Jury

5. This petition is the best way I know to get the relief I want and no other way will work as well because a personal restraint petition appears to be the only appropriate remedy available under Washington law to address this matter.

Fifth Ground

1. I should have my conviction for rape in the second degree reversed and/or vacated because my trial attorney cumulatively violated my right to effective assistance of counsel under the United States Constitution 6th Amendment when she, inter alia, failed to adequately investigate my only exculpatory defense and contact, interview, subpoena, and/or call my alibi witnesses, James Lee Hettrick, Kristofer James Bay, and Richard Rolph to testify in support of that defense, failed to question recanting alleged "indecent liberties" victim, Tim Delisle while Mr. Delisle was under oath and available for testimony, "stipulated" to the factual testimony of Officer Deanna Watkins, rather than interview, and/or secure Officer Watkins testimony about her investigation of the burglary of petitioner's home, and/or when she, inter alia, failed to object, moved to strike, and/or request a curative instruction, to Officer Sandra Aldridge's impermissible opinion testimony,

"all", as further articulated individually in the previous four grounds and incorporated by reference in their entirety for pertinent purposes of this instant ground.

2. The following facts are important when considering my case:

All the "facts" cited individually and/or cumulatively in the previous four grounds are completely incorporated by reference in their entirety for pertinent purposes of this instant ground and will not be repeated.

3. The following arguments and reported court decisions in cases similar and/or virtually identical to mine show the error(s) I believe happened in my own case:

All cases and/or arguments cited in the previous four grounds are also incorporated by reference in their entirety for pertinent purposes of this instant ground.

In Harris By and Through Ramseyer v. Wood, 64 F.3d 1432, 1435-37 (9th Cir. 1995), the court held that the cumulative errors of defense counsel caused Mr. Harris to receive ineffective assistance of counsel, and there was no need to analyze the errors impact individually because of the court's cumulative finding.

Similarly in Richter v. Hickman, 578 F.3d 944 (9th Cir. 2009), the court found that the cumulative errors of counsel and the fact that counsel presented no evidence to support its version of events, other than petitioner's testimony, constituted ineffective assistance of counsel.

Also, in Martin v. Grosshans, 424 F.3d 588 (7th Cir. 2005), the court held, inter alia, that there was a reasonable probability that without the cumulative effect of defense counsel's unprofessional errors, the result of the trial would have been different.

And finally, in In re Brett, 142 Wn.2d 868, 16 P.3d 601 (2001), the court noted that the multiple of errors of counsel constituted ineffective assistance of counsel.

Here, in petitioner's instant case, as in Harris, Richter, Martin, and/or Brett, petitioner's counsel's multiple errors as already previously and fully argued, articulated, and/or demonstrated in the previous four grounds, collectively, and/or in any combination thereof, constituted cumulative ineffective assistance of counsel.

Consequently, in light of "all" the foregoing, it should be clear, that: (1) Petitioner's trial counsel was constitutionally and/or factually deficient and ineffective "cumulatively" when she, inter alia, failed to adequately investigate my only exculpatory defense and contact, interview, subpoena, and/or call my alibi witnesses, James Lee Hettrick, Kristorfer James Bay, and Richard Rolph to testify in support of that defense, failed to question

recanting alleged "indecent liberties" victim, Tim Delisle about whether Chris had participated in the burglary of petitioner's home while Mr. Delisle was under oath and available for testimony, "stipulated" to the factual testimony of Officer Deanna Watkins rather than interview, and/or secure Officer Watkins testimony about her investigation of the burglary of petitioner's home, and/or when she, inter alia, failed to object, moved to strike, and/or request a curative instruction to Officer Sandra Aldridge's impermissible opinion testimony that Chris's mom believed her son had been "sexually assaulted" by petitioner on the specific ground that the testimony violated petitioner's federal constitutional right to an impartial jury, Strickland, supra; (2) Petitioner trial counsel was constitutionally and/or factually prejudicial and ineffective "cumulatively" when she, inter alia, failed to secure the offered testimonies of James Lee Hettrick, Kristofer James Bay, and Richard Rolph, failed to question and/or secure Tim Delisle testimony about Chris's participation in the burglary of petitioner's home, failed to use potential answers from Officer Watkins about her investigation of the burglary of petitioner's home to effectively refute the State's repeated assertions that since Chris suffered no apparent consequences from being reported as one of the "central dispute" burglars of petitioner's home, then it was highly unlikely that he used that fact as a motive to falsely accuse petitioner of sexual assault, "all", for petitioner's jury's consideration, and/or counsel's failure to, specifically object, move to strike, and/or request a curative instruction to Officer Aldridge's impermissible testimony that Chris's mom believed that petitioner had "sexually assaulted" her son to corroborate her son's version of events, whereas, had petitioner's jury not been subjected to that impermissible testimony and/or been given a curative instruction to disregard such testimony as corroborative evidence, for "all" the aforementioned, there was a reasonable probability that the outcome of petitioner's trial would have been different, Strickland, supra; and (3) Petitioner's trial counsel's cumulative decisions mentioned above, and in grounds one through four and/or any combination thereof, were not the result of any "reasonable" trial strategies and/or tactics because, inter alia, counsel failed to either conduct "interviews" of the witnesses in the aforementioned grounds, and/or did not present any other evidence in support of petitioner's version of events other than petitioner's sole testimony, despite the availability and/or unavailability of any of the other evidence and/or testimony mentioned above; Strickland, supra; Wood, supra; Howard, supra; Harris, supra; Richter, supra; Martin, supra; Brett, supra.

4. The following statutes, court rules, and/or federal constitutional provisions should be considered by this court:

6th Amendment Right To Effective Assistance of Counsel

5th, 6th, and/or 14th Amendment(s) Right(s) To An Impartial Jury

ER 801 (d)(2)(i)(Admission by Party-Opponent)

ER 801 (d)(2)(v)(Statement by a Co-Conspirator in the furtherance of the Conspiracy)

ER 804 (b)(3)(Statement Against Penal Interest)

5. This petition is the best way I know to get the relief I want and no other way will work as well because a personal restraint petition appears to be the only appropriate remedy available under Washington law to address this matter.

C. STATEMENT OF FINANCES

1. I do ask the Court to file this petition without making me pay the filing fee because I am so poor I cannot pay the fee.

2. I have approx. \$ 80⁰⁰ in my prison account.

3. Presently I am / not employed. If and when I would work for CRCC, I would make approx. \$ 55⁰⁰ a month maximum, net \$ 52⁰⁰ after , mandatory deductions.

4. I do ask the Court to appoint me a lawyer because I am so poor I cannot afford to pay a lawyer.

5. During the past 12 months other than approx. \$ 50⁰⁰ from my family. I do not have any savings or checking accounts and I do not own stocks, bonds, or notes.

6. During the past ¹² months I did not get any money from a business, profession or other form of self-employment.

7. I have no real estate, other property, or things of value which belong to me. I also do not have an interest in any such things.

8. I am / am not married.

9. All my family needs me home.

10. All the bills owe are unlimited and I do not know the names of all the creditors.

D. REQUEST FOR RELIEF

I request that this Court grant my petition and reverse and/or vacate my conviction for rape in the second degree and remand to the trial court for a new trial because I received the ineffective assistance of counsel.

At a minimum, I also request and/or move the Court for a reference and/or evidentiary hearing to resolve the issues as to "why" my trial counsel made the decisions she did as articulated and/or demonstrated in all five grounds of this petition under, inter alia, RAP 9.11, 16.7(a), 16.11(a), 16.11(b), 16.12, 16.13, In re Rice, 118 Wn.2d 876, 828 P.2d 1086 (1992), In re Cadwallader, 155 Wn.2d 867, 123 P.3d 456 (2005), and/or State v. Davis, 175

E. OATH OF PETITIONER

That I am the petitioner, that I have read this petition, know its contents, and I believe the petition is true.

Deron Anthony Parks

THE STATE OF WASHINGTON)
) ss.
COUNTY OF FRANKLIN)

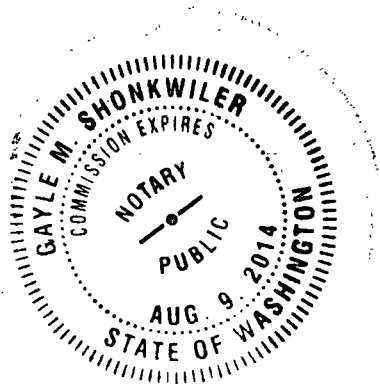
Subscribed and sworn to, before me this 17 day of April, 2013.

Gaule M Shonkwerter
Notary Public in and for the
State of Washington, Residing at

Grant County

My Commission on:

8.9.2014



SWORN DECLARATION OF DERON ANTHONY PARKS

I Deron Anthony Parks do declare the following:

At least 8 or more weeks before my trial, I gave my appointed trial attorney, Suzan L. Clark, the names of James Lee Hettrick and Kristofer James Bay, among others who were present and personally witnessed, the events, movements, and/or actions of Chris, myself and others, at Tyler's house that night of December of 2008 where I allegedly sexually assaulted Chris, and/or the subsequent events involving false sexual assault threats made by Chris, Tim, Scotty against me over my reporting their February 17th, 2009 burglary of my home. Additionally, I gave my trial attorney Suzan L. Clark the name of Richard Rolph at least 8 weeks prior to my trial and stated that he could testify to my interactions with Chris, Tim, and Scotty at Skate Park and/or my home, up until the day my home was burglarized.

I also note that I repeatedly before trial requested my trial attorney to secure the presence and testimonies of James Lee Hettrick, Kristofer James Bay, and Richard Rolph among others for my trial. And her response repeatedly was that she would have her investigator look into it, which she apparently never did.

I even gave some of my witnesses her phone number to contact her and they stated to me that they repeatedly called her office but never received any return calls from her to give an interview and/or their statements.

My witnesses mentioned above were never contacted for an interview by my trial attorney and/or any law enforcement officer investigating the alleged event of December 2008 at Tyler's house. As a matter of fact, none of the many witnesses that were present at Tyler's house that night were ever to my knowledge contacted and/or notified by anyone investigating Chris's allegations against me.

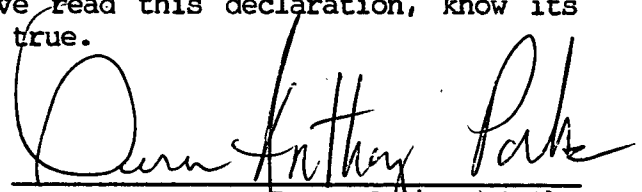
I also filed a complaint with Suzan Clark's supervisor following my trial for not having my witnesses present during my trial and not returning phone calls from my witnesses who wanted to give statements.

Moreover, on or about February 16, 2009, I discover that my home has been burglarized and I'm missing my Bose surround stereo system and my watch collection. On or about February 17, 2009, I reported the burglary of my home to an Officer Deanna Watkins. On or about February 18, 2009, after being informed by my neighbor that he had seen and recognized at least 2 young white men as friends of mine who burglarized my home, I called Officer Watkins and initially informed her that "Tim" and "Scotty" were the ones who had burglarized my home, however, after further investigation by myself and a confrontation with Chris, Tim, and Scotty at Skate Park about them burglarizing my home, and they "all" eventually admitting to it, I specifically remember calling Officer Watkins back, who did not answer, but leaving her a message through another officer that there were actually "three perpetrators" that had burglarized my home, Chris, Tim and Scotty, because they "all" had admitted to it in my confrontation with them at Skate Park.

Additionally, while confronting Chris, Tim, and Scotty at Skate Park about burglarizing my home, they "all" threatened to "mess my life" up if I ever reported either of them to police about their participation in the burglary. Moreover, numerous people that hung out in the same circle of people with Chris and/or myself were aware of and/or heard Chris and/or Tim repeatedly threatened to falsely accuse me of "rape" if I ever reported them as the burglars of my home.

I declare, under penalty of perjury under the laws of the State of Washington that I have examined this declaration and to the best of my knowledge and belief it is true and correct. And after being duly sworn, on oath, I depose and say:


That I am the declarant, that I have read this declaration, know its contents, and I believe the declaration is true.


Deron Anthony Parks

Declarant
P.O. Box 769
Connell, WA 99326-0769

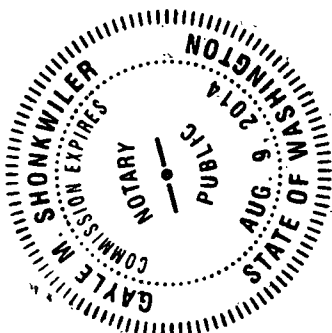
THE STATE OF WASHINGTON)
) ss.
COUNTY OF FRANKLIN)

Subscribed and sworn to, before me this 10th day of April, 2013.


Notary Public in and for the
State of Washington, Residing at

Grant County
My Commission on:

8-9-2014



I, James Lee Hettrick, am writing a statement on behalf of Deron Parks.

I was present on the night that Deron was accused of rape we were at Tylers house late December 2008. I was never contacted by any detective or Derons lawyer; if I had been I would have testified at his trial.

My friend Kristofer Bay and I went to Tylers house around 8:00 pm. Deron was there he had made a teriyaki chicken dinner and we played dominoes. I remember Tyler and Deron had a couple of beers and everyone was just relaxing and enjoying themselves. Christopher Thomas came over around 9:30. He was kind of quiet just sitting down by himself not really talking to anyone. Neither Deron nor Tyler ever offered Christopher Thomas any alcohol or drugs although I do recall Christopher saying that he had taken oxy and vicodin before he had come over to Tylers. No one really even spoke to him and it was very awkward. It was the first time I had seen him over at Tylers and the first time I met him.

Deron had asked Kris if he could give him a ride to Mojors earlier in the night and around 10:00 pm. Kris Deron and I got ready to leave. Tyler said Christopher could stay over and as we were saying our goodbyes I heard Christopher Thomas saying that he would stay over. Kris, Deron and I left and dropped Deron off at Mojors around 10:30 pm. He did not stay over at Tylers that evening.

Christopher Thomas still came around Deron and everyone months after this night up until Christopher had some involvement in Derons house being robbed. After Deron found out that Christopher was involved Christopher then said he was going to say that Deron raped him if he reported it to the police. Kris bay myself and Tyler heard him say this. We all knew this was a lie seeing as how we left Tylers house with Deron that night. Deron did not stay at Tylers that night so there is no way he could of done this.

If you need to reach me for any reason please call me at 770-309-2781



State of Washington
County of Clark
Sworn before me this 22 day of Jan 2013
Signed Sheila K Davis
My commission expires June 01 2013



To whom this may concern,

I Kristofer James Bay am writing a statement for Deron Parks as a witness for being with him at Tyler's house on December 7, 2008, Which was when Mr. Parks was accused of Rape by Christopher Thomas.

I, James, Tyler, Ashley, and her brother Chris, were all at Tyler's that night playing dominoes, eating some delicious teriyaki chicken Deron had made. Also Tyler, Ashley, and Deron had been drinking some beers, while listening to music. Now I'm not too sure who invited Christopher Thomas over, but he had arrived to Tyler's house around 8-830pm to hangout, I suppose. But we all just kept continuing to play dominoes; at this point in time I had noticed how Christopher Thomas had seemed oddly quiet. At no time do i recall Deron offering Christopher Thomas or anyone else any beer or drugs this including myself. After we ate and played a few games of dominoes, Deron had asked me if I would give a ride to the bar "Mojo's" to meet some of his friends and play pool. I said yes of course because I've dropped him off many times and which was close to my house. So James, Deron and I all loaded up in my car around 10-1030pm at that point we all said Bye to Tyler, Ashley, and her brother Chris, at this time is when Tyler had offered to allow Christopher Thomas to stay the night on his couch. James and I took Deron to the bar dropped him off and he had said he will call if he needs a ride home. I called Deron around 2am in the morning and he had said he made it home.

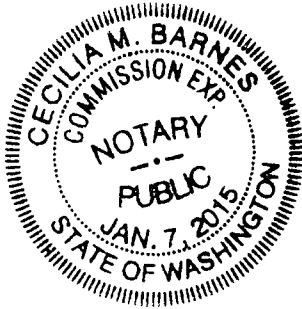
Now after that evening we would all continue to hang out at Tyler's house, even Christopher Thomas and his brother I assumed who he was always with would also still go over often! Deron later moved into his new house off Burton St. around February. James and I would always be over at Derons new place, to where we would also see Christopher Thomas, Timothy and Scotty. Timothy if I remember correctly said he had lived close by to Deron's new place off Burton St. They would always come by and play with his dog. Soon after Christopher, Timothy, and Scotty started coming by Derons house had got robbed. Deron talked to his neighbor whom said he had saw three kids and described what they had looked like. Who turned out to be Christopher, Timothy, and Scotty so Deron confronted them about it and they had admitted to it but wouldn't return any of Deron's property. Then that's when they had threatened to say Deron raped them, if we reported them to the police for the robbery. Which is just bizarre, something that I couldn't, and never would believe, I knew it didn't happen. I mean how could this have happened? I had Dropped Deron off at "Mojo's" and he didn't stay the night at Tyler's that evening from my recognition. Christopher Thomas, Timothy, and Scotty were always still coming over to Deron's for months until this robbery situation came in the picture.

I would have testified in Deron's behalf, so would have many others if his lawyer would have just tried to get in contact with us. No one had ever contacted or interviewed anyone of us from Tyler's house that night to get a statement. Still to this day I find Deron Park's innocent because from what i remember Deron wasn't physically there.

Sincerely Kristofer James Bay,

Kristofer J. Bay

Ps. if anyone needs to get ahold of I for any reason here is my Cell phone number you can reach me at
(360) 433-5466



State of Washington

County of Clark

Sworn before me this 18 day of January 2013

Signed Cecilia Barnes

My commission expires January 7, 2015.

My name is Richard Rolph and I am writing this Statement as a witness for Deron Parks. I was present on a few occasions when Chris, Scottie and Tim approached Deron and I while we were exercising his dog Chicco at the skate park. They also played fetch with Chicco and there was no alcohol or drugs involved. I also witnessed Chris and Tim at Deron Parks house hanging out listening to music up until the day Derons house was robbed they were around and there was never any alcohol or drugs present.

Rich Rolph

WASHINGTON SHORT-FORM INDIVIDUAL ACKNOWLEDGMENT (RCW 42.44.100)

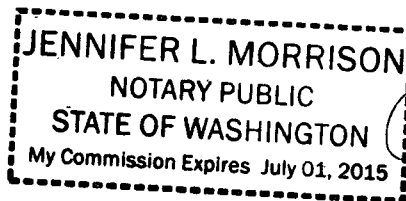
State of Washington

County of Pacific } ss.

I certify that I know or have satisfactory evidence that Richard A. Rolph
Name of Signer

is the person who appeared before me, and said
person acknowledged that he/she signed this
instrument and acknowledged it to be his/her free
and voluntary act for the uses and purposes
mentioned in the instrument.

Dated: 7-6-12
Month/Day/Year



Jennifer L. Morrison
Signature of Notarizing Officer

Notary Public
Title (Such as "Notary Public")

My appointment expires

7-1-15
Month/Day/Year of Appointment Expiration

Place Notary Seal Above

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: 1

Signer(s) Other Than Named Above: none

**Right Thumbprint
of Signer**

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FILED

OCT 04 2010
@ 8:55
Sherry W. Parker, Clerk, Clark Co.

1
2
3
4
5 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
6 IN AND FOR THE COUNTY OF CLARK

7 STATE OF WASHINGTON,

MOTIONS IN LIMINE

8 Plaintiff,

9 vs.

No. 10-1-01215-0

10 DERON ANTHONY PARKS ,

11 Defendant.
12

13 COMES NOW the Defendant, by and through his attorney, Suzan L.
14 Clark County, and does respectfully move the Court to enter an Order on the
15 following motions in limine:
16

17 1. The defense moves the Court to allow the defense to inquire as to the
18 juvenile adjudications of the state's witnesses attached hereto. The convictions
19 pre-date the first report of the present allegations to law enforcement and
20 establish a motive to be untruthful as to each of their involvement in the
21 burglary of Deron Parks' home on February 17, 2009 and the subsequent
22 accusations by two of the young men that Parks committed sexual offenses
23 against them.

24 The young men involved each have extensive involvement with
25 the juvenile system and have faced progressively harsher punishment after
26

27 MOTIONS IN LIMINE - 1

SUZAN L. CLARK
ATTORNEY AT LAW
1101 BROADWAY STREET • SUITE 250
VANCOUVER, WASHINGTON 98660
(360) 735-9434

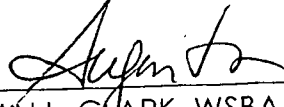
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1 each adjudication. The increased punishment faced by the juveniles from
2 Parks reporting the burglary serves as a motive for the juveniles to fabricate the
3 current allegations against Parks.

4 In Davis v. Alaska, 415 U.S. 308, 315-18, 94 S. Ct. 1105, 39 L. Ed. 2d
5 347 (1974) the court held that prior juvenile adjudications are admissible to
6 show bias or motive in testifying. Under ER 609(d), evidence of juvenile
7 adjudications of guilt generally is admissible, if the court is "satisfied that
8 admission in evidence is necessary for a fair determination of the issue of guilt
9 or innocence."

10
11 2. The defense moves the Court to exclude all witnesses from the courtroom
12 prior to giving testimony and to instruct the witnesses not to discuss the
13 testimony they have given with other witnesses.

14 DATED this 1st day of October, 2010
15
16

17
18 
19 SUZAN L. CLARK, WSBA #17476
20 Attorney for the defendant
21
22
23
24
25
26

27 MOTIONS IN LIMINE - 2

SUZAN L. CLARK
ATTORNEY AT LAW
1101 BROADWAY STREET • SUITE 250
VANCOUVER, WASHINGTON 98660
(360) 735-9434

Known Convictions for State Witnesses

Christopher Allan Thomas

<u>OFFENSE</u>	<u>Court</u>	<u>CASE NUMBER</u>	<u>OFFENSE DATE</u>
Assault 2	Clark County	09-8-00563-5	5/18/09
Taking a Motor Vehicle Without Permission 2	Clark County	09-8-00193-1	2/6/09
Assault 4	Clark County	06-8-01293-9	11/17/06
Assault 4 and Disorderly Conduct	Clark County	05-8-00342-7	2/11/05

Timothy Delisle

<u>OFFENSE</u>	<u>Court</u>	<u>CASE NUMBER</u>	<u>OFFENSE DATE</u>
Assault 2	Clark County	09-8-00564-3	5/18/09
Taking a Motor Vehicle Without Permission 2	Clark County	09-8-00195-8	2/6/09
Malicious Mischief 2	Clark County	08-8-00782-6	6/12/08
Disorderly Conduct	Clark County	08-8-00720-6	5/16/08
Malicious Mischief 2, Malicious Mischief 2, and Malicious Mischief 3	Clark County	08-8-00309-0	3/19/08
Malicious Mischief 3	Clark County	07-8-00306-7	3/14/07
Malicious Mischief 3	Clark County	06-8-00909-1	2/18/06

Zachary Scott Thomas

<u>OFFENSE</u>	<u>Court</u>	<u>CASE NUMBER</u>	<u>OFFENSE DATE</u>
Assault 2	Clark County	09-8-00555-4	5/18/09
PSP 2	Clark County	09-8-00516-3	5/1/09
Burglary 2		08-8-00067-8	1/22/08
MIP	Clark County	07-8-01058-6	1/22/08
Residential Burglary	Clark County	07-8-01006-3	8/30/07
Residential Burglary (two counts)	Clark County	07-8-01275-9	7/17/07 and 10/29/07

2

FILED

OCT 04 2010

Sherry W. Parker, Clerk, Clark Co.
@ 3:46 pm

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

DERON PARKS,

Defendant.

No. 10-1-01215-0

STIPULATION AS TO ADMISSIBILITY
AND FACTS

COMES NOW the State of Washington, by and through Jeff McCarty, Deputy
Prosecuting Attorney for Clark County, Washington, and Deron Parks, by and through
his attorney, Suzan Clark, and hereby stipulate to the following facts pursuant to an
agreement between the State and the Defendant. The parties stipulate to the
admissibility of the following statements.

This stipulation is being made after advice of rights and consultation of counsel. \

STIPULATED FACTS - 1

CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

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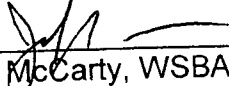
STIPULATED FACTS

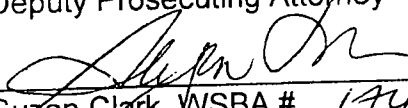
On February 17, 2009 Deron Parks reported to Vancouver Police Officer Deanna Watkins that his home was burglarized and numerous items were stolen. He reported that it occurred during the night while he was at work.

On February 18, 2009, Deron Parks reported to Officer Watkins that he had suspect information. He reported that the suspects were "Scottie" and Tim". He reported that they had been to his house a couple of times. He reported that he confronted "Scottie" and "Tim" at the skateboard park on 4th Plain and they admitted to the burglary.

On February 17, 2009, Officer Watkins spoke to a neighbor of Deron Parks. The neighbor reported hearing glass break and then seeing two young males leaving the home of Deron Parks. The neighbor told police that he thought it was people Deron Parks knew because he had seen the young males there before.

DATED this 4 day of Oct, 2009.


Jeff McCarty, WSBA # _____
Deputy Prosecuting Attorney


Suzan Clark, WSBA # 17476
Attorney for Defendant


Deron Parks
Defendant

STIPULATED FACTS - 2

CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

49

FILED

2010 JUL 29 PM 3: 14

Sherry W. Parker, Clerk
Clark CountyIN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

DERON ANTHONY PARKS

Defendant.

INFORMATION

No. 10-1-01215-0
(VPD 09-18644)

COMES NOW the Prosecuting Attorney for Clark County, Washington, and does by this inform the Court that the above-named defendant is guilty of the crime(s) committed as follows, to wit:

COUNT 01 - RAPE IN THE SECOND DEGREE - 9A.44.050 /9A.44.050(1)(b)

That he, DERON ANTHONY PARKS, in the County of Clark, State of Washington, between December 1, 2008 and December 31, 2008, did engage in sexual intercourse with C.A.T. when C.A.T. was incapable of consent by reason of being physically helpless or mentally incapacitated; contrary to Revised Code of Washington 9A.44.050(1)(b).

This crime is a 'most serious offense' pursuant to the Persistent Offender Accountability Act (RCW 9.94A.030(29), RCW 9.94A.030(34), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).

COUNT 02 - INDECENT LIBERTIES (WITHOUT FORCIBLE COMPULSION) - 9A.44.100(1) /9A.44.100(1)(b)

That he, DERON ANTHONY PARKS, in the County of Clark, State of Washington, between November 1, 2008 and December 31, 2008, did knowingly cause T.M.D., a human being, not his spouse, incapable of consent by reason of being physically helpless to have sexual contact with him contrary to Revised Code of Washington 9A.44.100(1)(b).

This crime is a 'most serious offense' pursuant to the Persistent Offender Accountability Act (RCW 9.94A.030(29), RCW 9.94A.030(34), RCW 9.94A.505(2)(a)(iii) and RCW 9.94A.570).

COUNT 03 - OVER 18 AND DELIVER A NARCOTIC FROM SCHEDULE 1 OR II - 69.50.406(a)

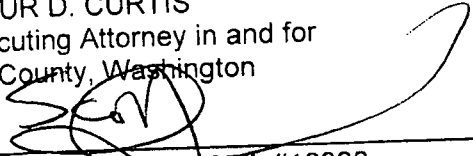
That he, DERON ANTHONY PARKS, in the County of Clark, State of Washington, between November 1, 2008 and December 31, 2008, being over eighteen years of age did distribute cocaine, a narcotic controlled substance classified under RCW 69.50.101, to a person under eighteen years of age and three years his junior, to-wit: T.M.D., in violation of RCW 69.50.401 (a), contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

COUNT 04 - FURNISHING LIQUOR TO MINORS - 66.44.270(1)

That he, DERON ANTHONY PARKS, in the County of Clark, State of Washington, between December 1, 2008 and December 31, 2008 did sell, give, or otherwise supply liquor to any person under the age of twenty-one (21) years and/or did permit any person under that age to consume liquor on his premises or on any premises under his control; contrary to Revised Code of Washington 66.44.270(1).

ARTHUR D. CURTIS
Prosecuting Attorney in and for
Clark County, Washington

Date: July 27, 2010

BY: 
Scott Jackson, WSBA #16330
Senior Deputy Prosecuting Attorney

DEFENDANT: DERON ANTHONY PARKS

RACE: B **SEX:** M **DOB:** 12/3/1967

DOL: PARKSDA336RC WA **SID:** WA23005769

HGT: 509 **WGT:** 185 **EYES:** BRO **HAIR:** BLK

WA DOC: **FBI:** 670040VB1

LAST KNOWN ADDRESS(ES):

JIS - 8502 NE 20TH ST, VANCOUVER WA 98661

FORS - NO RECORD,

HOME - 2010 NE 86TH AV, VANCOUVER WA

DOL - 2906 NE 141ST ST, VANCOUVER WA 98686

CAIC-V FUND 1015

INFORMATION - 2
blm

Arthur D. Curtis Children's Justice Center
P.O. Box 61992
Vancouver Washington 98666
(360) 397-6002

State of Washington v. Deron Anthony Parks
Clark County Cause No. 10-1-01215-0
Court of Appeals No. 41534-8-II

1 thought I should bring up, the victim -- listed
2 victim in Count 1 is Christopher Thomas. He is
3 coming in from out of town. We have made travel
4 arrangements for him. He will be here to testify
5 first thing tomorrow morning. So, I wanted to let
6 the Court know that. And, the other one, defense
7 counsel and I learned relatively late in the
8 proceedings that we both were going to want some
9 testimony from Vancouver Police Officer Dana Watkins.
10 We have had some difficulty in contacting her. We
11 have discussed it and we believe we probably can
12 agree upon a stipulation of what her testimony would
13 be that would be acceptable to both parties. Thank
14 you.
15

16 JUDGE JOHNSON: All right. Thank you. And,
17 anything you wish to add, Ms. Clark?

18 MS. CLARK: No, Your Honor.

19 JUDGE JOHNSON: And, did you have interview -- or,
20 jury information statements as to all of the
21 prospective jurors?

22 MR. McCARTY: Yes, Your Honor.

23 MS. CLARK: Yes.

24 JUDGE JOHNSON: And, have you had a chance to
25

State of Washington v. Deron Anthony Parks
Clark County Cause No. 10-1-01215-0
Court of Appeals No. 41534-8-II

1 close to 1:30. So, we will see you back by 1:30 PM.

2 MR. McCARTY: And, Your Honor, I was just going to
3 go ahead and give the Court a copy of my jury
4 instructions.

5 JUDGE JOHNSON: Oh, very good. I can go through
6 those then.

7 MR. McCARTY: I have a cited copy to file with the
8 Clerk. And then, I have a cited and uncited working
9 copy.
10

11 JUDGE JOHNSON: Very good. Thank you. All right.
12 Thank you.

13 (Court recesses on this matter at 12:24:46 PM.)

14 (Court reconvenes on this matter at 2:10:41 PM.)

15 JUDGE JOHNSON: Thank you. Please be seated. And,
16 go ahead.

17 MS. CLARK: Your Honor, there have been some
18 developments over the lunch hour and I -- there are a
19 couple of motions I would like to make to the Court.
20 As we indicated to the Court earlier, the named
21 victim in Counts 2 and 3 is a young man named Timothy
22 Delisle. Mr. Delisle had not been cooperative with
23 an interview, as requested, either for the prosecutor
24 or for myself. He came in Friday, last week, on
25

State of Washington v. Deron Anthony Parks
Clark County Cause No. 10-1-01215-0
Court of Appeals No. 41534-8-II

1 October 1st, at a time he was not scheduled. I began
2 to try to interview him on that date and he refused
3 to be recorded. So, he was directed to be here this
4 morning at nine o'clock. He finally did appear at
5 1:30. Actually, I think closer to one o'clock. We
6 were able -- my investigator, Gary Rice, Mr. Delisle,
7 Detective Folsom, the YWCA advocate and Mr. McCarty -
8 - to interview Mr. Delisle in Judge Nichol's jury
9 room.

10
11 At that time, during the interview, Mr. Delisle
12 recanted all testimony regarding any sexual contact
13 between himself and my client, Deron Parks, and
14 denied that Mr. Parks ever supplied cocaine to him.
15 It is my belief that that is the only testimony in
16 this case that sets -- that provides substantive
17 evidence to support Counts 2 and 3.

18 These cases are essentially two separate victims,
19 alleged victims, that are linked by the fact that
20 their charge is against Mr. Parks. I object, first
21 of all and move in limine, to the State putting on
22 Mr. Delisle knowing that he has recanted that
23 testimony because it is not substantive evidence.
24 And, I believe there is case law that says you can't
25

State of Washington v. Deron Anthony Parks
Clark County Cause No. 10-1-01215-0
Court of Appeals No. 41534-8-II

1 put on a person only for the purpose, essentially, of
2 impeaching him.

3 So, at this time, what I would do is move to sever
4 Counts 2 and 3 and proceed with trial on Count 1 of
5 the case. Count 2 and 3, I can certainly brief more
6 fully on those issues, and I apologize to the Court
7 that this is a case where we had an uncooperative
8 witness and we did make several attempts to interview
9 him pre-trial with no success. So, this is the
10 soonest I could bring the motion in that regard.

11 I think it would be highly prejudicial if we went
12 forward with the three counts -- well, the four
13 counts together today in that I think the State has
14 no substantive evidence and any impeachment evidence
15 would be highly prejudicial to my client and then, I
16 think the jury could infer, well, there is a second
17 victim. He's afraid to talk for some reason.

18 JUDGE JOHNSON: All right. Thank you, Ms. Clark.
19 Response?

20 MR. McCARTY: Your Honor, factually everything that
21 Ms. Clark has stated, that's all correct. Mr.
22 Delisle came in and talked with us this afternoon and
23 pretty much recanted what -- what he has previously
24
25

State of Washington v. Deron Anthony Parks
Clark County Cause No. 10-1-01215-0
Court of Appeals No. 41534-8-II

1 said. He actually denied any memory of speaking
2 previously with Detective Folsom and denies that the
3 -- the sexual contact with Mr. Parks ever occurred or
4 denies memory of it. And, that is completely
5 different than what he has previously told law
6 enforcement.

7 I would oppose a motion to sever at this point.
8 My plan to go forward is to limit myself in opening
9 regarding Counts 2 and 3 and what Mr. Delisle might
10 be saying because, frankly, I don't know what he is
11 going to say, under oath, today. I don't know if he
12 is going to continue his recantation or if that will
13 make any difference to him, the fact that he is under
14 oath. But, my plan is to have him testify in regards
15 to those counts and then, certainly, if the State
16 hasn't met its burden then Ms. Clark's motion would
17 better be addressed as a half-time motion rather than
18 a motion to sever, at this point.

19 I also believe by limiting myself in opening, we
20 could avoid any undue or unfair prejudice to Mr.
21 Parks. And, also, for the sake of judicial economy,
22 we can get all this done today and tomorrow with this
23 trial rather now starting with separate proceedings
24
25

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1 regarding these other counts. So, thank you.

2 JUDGE JOHNSON: Well, I don't think the motion to
3 sever is timely, at this point, for consideration. I
4 realize you have attempted to interview earlier.
5 But, at this point, we have impaneled and sworn a
6 jury as to the charges in the case. So, it -- I
7 think we need to move ahead on that basis. I would
8 agree that if the evidence is not sufficient, then
9 certainly the Court would hear, under these
10 circumstances without a previous sworn testimony, the
11 -- any prior interview information and so on, would
12 have limited effect, so it may very well be that
13 there would be insufficient evidence if the evidence
14 is as anticipated.

15
16 MS. CLARK: My alternative motion, then, Your
17 Honor, is a motion in limine to exclude the testimony
18 of Timothy Delisle on either of those two counts and
19 to ask the State to make an offer of proof of sworn
20 testimony at this time with Mr. Delisle on the stand.

21 JUDGE JOHNSON: I'm sorry I didn't follow what the
22 nature of your motion was.

23 MS. CLARK: I'm moving to exclude his testimony
24 because it is solely for the purpose of impeachment
25

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1 and if the State wants to present Mr. Delisle's
2 testimony, with regard to allegations of providing
3 cocaine or any sexual contact with my client, they
4 need to make a sworn offer of proof supporting that.

5 JUDGE JOHNSON: Response? I -- I'm not quite sure
6 I understand. If they call the witness and he
7 doesn't testify -- how -- I'm -- I just don't quite
8 follow what you are saying, but I will see if Mr.
9 McCarty does.

10 MR. MCCARTY: I -- I think I understand what Ms.
11 Clark is asking for. Because the concern -- I
12 understand her concern as defense attorney and my
13 concern in making a clean record for the appellate
14 courts is, if putting on Mr. Delisle for what the
15 State is going to be requesting testimony about,
16 sexual assault and indecent liberties, in providing
17 delivery of cocaine to him by Mr. Parks, and now we
18 have reasonable basis to think that maybe he is not
19 going to testify to any of those, is there -- are we
20 unduly prejudicing the defendant in front of the
21 jury. So, perhaps an offer of proof would not be out
22 of line to bring Mr. Delisle, put him under oath in
23 front of Your Honor, outside the presence of the
24
25

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1 jury, and make him testify. It might be a way of
2 preserving a cleaner record and then, we will all
3 know for sure if the State is going to be able to go
4 forward on Counts 2 and 3.

5 JUDGE JOHNSON: Is that what you're requesting,
6 Counsel?

7 MS. CLARK: Yes, Your Honor.

8 JUDGE JOHNSON: All right. Well, let's go ahead
9 and bring him in, then. (Prosecutor leaves the
10 courtroom momentarily to retrieve the witness.) We
11 will need to have the podium moved in the position of
12 questioning witnesses. (To the witness.) All right.
13 If you would step forward up here to the witness
14 chair and raise your right hand to be sworn.
15

16 **TIMOTHY DELISLE**

17 was thereupon called as a witness and, having
18 been duly sworn on oath, was examined and testified
19 as follows:

20 **DIRECT EXAMINATION**

21 JUDGE JOHNSON: You have to answer yes or no.

22 MR. DELISLE: Yes.

23 JUDGE JOHNSON: All right. Please be seated.

24 (To the bailiff.) Is Donnelle here? Is Donnelle
25

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1 here? (To the judicial assistant.) Could you
2 assist, please, I don't think Carl is familiar with
3 where we put the podium. (Judicial assistant and
4 bailiff position the podium.) All right. Thank you.
5 (To the witness.) And, please state your name and
6 spell your first and last name.

7 MR. DELISLE: Tim Delisle.

8 JUDGE JOHNSON: I'm sorry. What was your name,
9 please?

10 MR. DELISLE: Tim Delisle.

11 JUDGE JOHNSON: And, please spell your first name
12 and your last name.

13 MR. DELISLE: T-I-M. And, my last name is D-E-L-
14 I-S-L-E.

15 JUDGE JOHNSON: All right. Thank you. And, you
16 need to move your hand away from your mouth so we can
17 understand you. Go ahead, please.

18 BY MR. McCARTY:

19 Q. Tell us your date of birth.

20 A. Huh?

21 Q. Your date of birth?

22 A. 04/09/92.

23 Q. How old are you?

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- 1 A. Eighteen.
- 2 Q. Where do you live?
- 3 A. Vancouver.
- 4 Q. Who do you live with?
- 5 A. My mom.
- 6 Q. Mr. Delisle, do you know anybody sitting in the
- 7 courtroom?
- 8 A. Yeah.
- 9 Q. Who is that?
- 10 A. Deron.
- 11 Q. His full name?
- 12 A. Deron.
- 13 Q. Do you know his last name?
- 14 A. No.
- 15 Q. How do you know Deron?
- 16 A. I met him at the Skate Park.
- 17 Q. Which Skate Park?
- 18 A. Swift.
- 19 Q. Where is that?
- 20 A. On Fourth Plain and McLoughlin Way.
- 21 Q. Here in Vancouver?
- 22 A. Yeah.
- 23 Q. How long have you known Deron?
- 24
- 25

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1 A. Two years.

2 Q. Do you know how old he is?

3 A. Yeah. Or, no, I don't.

4 Q. Did he ever tell you how old he was?

5 A. Nope.

6 Q. You have known him about two years so you met him in
7 September of 2008 or October of 2008?

8 A. I don't know. Around that time.

9 Q. Okay. What would you do when you were with Deron
10 Parks?

11 A. Hang out.

12 Q. What does that mean?

13 A. I went to his place and we would hang out. I don't

14 --

15 Q. Where would you hang out?

16 A. The Skate Park.

17 Q. Anywhere else?

18 A. Huh?

19 Q. Anywhere else?

20 A. Yeah. At some guy named T's house.

21 Q. Have you ever been to Deron's house?

22 A. No. Yeah, a couple of times.

23 Q. How many times?

24

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1 A. A couple of times. I don't know.

2 Q. What would you do when you were hanging out?

3 A. Hang out, smoke some weed.

4 Q. Smoke some weed?

5 A. Yeah.

6 Q. You mean, marijuana?

7 A. Yeah. Weed.

8 Q. Did you do anything else?

9 A. Nope.

10 Q. Do any other kinds of drugs?

11 A. I would.

12 Q. Like what?

13 A. Coke.

14 Q. You mean, cocaine?

15 A. Yeah.

16 Q. Did Mr. Parks ever provide any of these items to
17 you?
18

19 A. I get them for myself.

20 Q. Do you remember ever telling the police something
21 different?

22 A. No.

23 Q. Do you remember being incarcerated at the Green Hill
24 School for Boys, in Chehalis, Washington?
25

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1 A. Yeah.

2 Q. When were you there?

3 A. The last year and (inaudible) months.

4 Q. What were you there for?

5 A. Assault.

6 Q. When you were at the Green Hill School for Boys, do
7 you remember speaking to Detective Barry Folsom?

8 A. No.

9 Q. Do you remember Detective Folsom calling you on the
10 telephone?

11 A. No.

12 Q. Do you remember Detective Folsom coming and speaking
13 to you in person at the school?

14 A. No.

15 Q. Do you remember any police officer coming and
16 talking to you in person?

17 A. No.

18 Q. Do you remember making any kind of report involving
19 a sexual assault of you, by Deron Parks?

20 A. No.

21 Q. Do you have any memory of telling Detective Folsom
22 that Deron would bring coke for you and you would do coke
23 together?
24
25

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1 A. No.

2 Q. Have you ever spent the night at Deron Parks' home?

3 A. Yeah.

4 Q. How many times?

5 A. I don't know.

6 Q. Do you remember ever doing cocaine at his home?

7 A. No.

8 Q. Do you remember telling Detective Folsom that you
9 did cocaine at his home?

10 A. No, I don't remember talking to that guy.

11 Q. Do you recall an incident where you passed out at
12 Deron Parks' home?

13 A. No.

14 Q. Do you recall an incident waking up and Deron Parks
15 was touching you?

16 A. No.

17 Q. Do you recall telling Detective Folsom about that
18 incident?

19 A. No.

20 Q. So, you were in Green Hill most of last year, is
21 that correct?

22 A. Yup.

23 Q. What do you remember about Green Hill?
24
25

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1 A. It was gay.

2 Q. Did you take classes?

3 A. Huh?

4 Q. Did you take any classes?

5 A. Yeah, we went to school.

6 Q. What classes?

7 A. I got my GED there.

8 Q. Okay. When did you get that?

9 A. Sometime last year.

10 Q. Do you remember when?

11 A. No, I don't.

12 Q. So, is it possible that a police officer came and
13 spoke to you last November, at Green Hill?

14 A. He might have. I don't know. It is -- it is
15 possible. I don't remember any police officers coming
16 there.

17 Q. Your Honor, I have nothing further that I can ask
18 this witness.

19 JUDGE JOHNSON: All right. Did you wish to ask any
20 questions, Ms. Clark?

21 CROSS-EXAMINATION

22 BY MS. CLARK:

23 Q. Just a couple of questions, Your Honor. Mr.
24

25

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1 Delisle, Deron Parks never provided cocaine to you,
2 correct?

3 A. No.

4 Q. And, he never touched you in a sexual manner --

5 A. No. No.

6 Q. Or, on a sexual part of your body?

7 A. No.

8 Q. Thank you. I have no further questions.

9 JUDGE JOHNSON: Any further questions?

10 MR. McCARTY: No, Your Honor.

11 JUDGE JOHNSON: All right. You may step down and
12 wait outside in the hallway. (Witness leaves the
13 stand.) All right. Anything further? Argument?

14 MS. CLARK: Your Honor, I would move to dismiss
15 Counts 2 and 3, under CrR 8.3, which I think is in
16 the interest of justice. There is absolutely no
17 substantive evidence supporting either of the
18 allegations, in that they depend entirely on this
19 testimony.
20

21 JUDGE JOHNSON: And, response?

22 MR. McCARTY: She is correct. I have nothing else
23 I can offer to prove those allegations. We don't
24 have any sworn statement from Mr. Delisle and we have
25

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1 no other witnesses to corroborate that. So, she is
2 correct.

3 JUDGE JOHNSON: The Court, not knowing if there
4 were any other witnesses to the issue and the State
5 having now stated that there would be no other
6 witnesses, therefore, the Court would dismiss, then,
7 Counts 2 and 3. It is somewhat an unusual procedure
8 to do it at this stage but I think that the request
9 was that doing it by way of an offer of proof would -
10 - would be done so as to prevent prejudice as to
11 Counts 1 and 4, is my understanding. The State does
12 intend to go ahead with Counts 1 and 4, is that
13 correct?
14

15 MR. McCARTY: Yes, Your Honor.

16 JUDGE JOHNSON: All right. Very well. Counts 2 and
17 3 are dismissed. And, we have Counts 1 and 4
18 remaining.

19 And, I was halfway through giving the jury
20 preliminary instructions, as we do in these cases,
21 then, we would follow that with opening statement. I
22 don't know if we are ready, at this time, for opening
23 statement or do we need to take up the issue of
24 motions in limine prior to your opening. Counsel?
25

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1 MR. McCARTY: Maybe we could address the motions in
2 limine. (A yelling sound is heard in the courtroom.)

3 JUDGE JOHNSON: What was that? Is that a cell
4 phone or something?

5 SPECTATOR: I hit the wrong button.

6 JUDGE JOHNSON: Go ahead.

7 MR. McCARTY: I have received a copy of Ms. Clark's
8 motions in limine. Going through them backwards, I
9 have no objection to Number 2, her motion to exclude
10 witnesses. Number 1 is a more interesting motion but
11 I'm actually not going to object, under the unique
12 circumstances of this case. I believe the jury
13 should hear about the juvenile convictions of the
14 State's witnesses. So, I do not object to that.

15 JUDGE JOHNSON: And, the rule provides that the --
16 let's see, --

17 MS. CLARK: 609(d).

18 JUDGE JOHNSON: Evidence Rule 608 provides that
19 impeachment may be allowed on the same basis, as to a
20 witness, as it would if admissible under the general
21 rule. The summary that was provided here, I looked
22 through that. It appeared that some prior
23 convictions would be admissible, under the general
24
25

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1 rule, and some not. So, I'm not sure whether we'll -
2 - will the State be dismissing, then, Mr. Delisle as
3 a witness? He would not be called, then, is that
4 correct?

5 MR. McCARTY: That's correct.

6 JUDGE JOHNSON: So, we are dealing -- the other
7 witnesses remaining were Mr. Thomas, Mr. Christopher
8 Thomas, Mr. Zachary Thomas and I don't know if the
9 other witness had any convictions or not -- the --

10 MR. McCARTY: Ms. Flenory does. I've disclosed
11 that to defense, also. That conviction will also, I
12 presume, come into evidence.

13 JUDGE JOHNSON: I'm sorry?

14 MR. McCARTY: I presume that conviction will also
15 come into evidence, Ms. Flenory's prior.

16 JUDGE JOHNSON: And, what was her conviction?

17 MR. McCARTY: It was a theft, three, and assault,
18 three.

19 JUDGE JOHNSON: Now, are you saying that all
20 convictions are being suggested to come in or only
21 those indicating dishonesty? Generally -- the
22 general rule allows those that we are all familiar
23 with.
24
25

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1 MS. CLARK: Your Honor, if I may, the theory is a
2 little bit different, in this case, in that the
3 assault was alleged to have taken place in December
4 of 2008. Mr. Parks' residence was burglarized in
5 February 2009, which led to a confrontation with some
6 of the young men involved where there was some,
7 "We'll get you" type of threats made. And then, the
8 report of the offense didn't take place until
9 Christopher Thomas was in juvenile later in the fall
10 of that year. So, our theory is that the number of
11 juvenile convictions show that he is essentially
12 receiving increasing punishment, that he is in
13 juvenile at the time that he is contacted and facing
14 a probation violation and possible questioning
15 related to this burglary. And, as a result of that,
16 we think it is arguable, along with the delayed
17 report, that it goes to motive for fabricating the
18 allegations against Mr. Parks.

19
20 JUDGE JOHNSON: I see. So, argument more under the
21 constitutional bias argument, under the case cited.

22 MS. CLARK: Confrontation.

23 JUDGE JOHNSON: All right. Very well. Then, both
24 motions in limine would be granted and that would
25

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1 take us through any preliminary matters, I think,
2 before opening statement. Are we ready then?

3 MS. CLARK: Yes.

4 JUDGE JOHNSON: All right. Since we already moved
5 the podium over there, I'll just allow Counsel, in
6 giving opening statements, to move about freely. If
7 we need an additional microphone, we do have a
8 portable microphone that we might need to use for
9 Counsel. We can clip on for opening statement, if we
10 need that. Otherwise, we can use the microphone up
11 at the bar there. All right. Are we ready for the
12 jury, then?

13
14 MR. McCARTY: Your Honor, will you be informing the
15 jury that we are no longer addressing Counts 2 and 3?

16 JUDGE JOHNSON: Yes, I think I should do that, that
17 we are now limiting the consideration to Count 1 and
18 Count 4. (To the bailiff.) We are ready for the jury.

19 (Bailiff escorts the jury into the courtroom.)

20 JUDGE JOHNSON: Good afternoon, Members of the
21 jury. We are sorry to keep you waiting so long.
22 But, I will advise you, before we complete the
23 preliminary instructions to the jury, that your
24 considerations in the case have been narrowed. So,
25

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1 while it did take us some time here, you will be
2 considering only Count 1, the charge of rape in the
3 second degree and Count 4, furnishing liquor to
4 minors. And, I will now complete the instructions to
5 the jury and then, following that we will be hearing
6 opening statement of the attorneys.

7 I will now explain to you the function and duty of
8 jurors, the Court and the lawyers and the procedure
9 to be followed during trial.

10 The lawyer's remarks, statements and arguments are
11 intended to help you understand the evidence and
12 apply the law. They are not evidence, however, and
13 you should disregard any remarks, statements, or
14 arguments which are not supported by the evidence or
15 by the law, as I give it to you.

16 The law does not permit me, as the Judge, to
17 comment on the evidence in any way and I will not
18 intentionally do so. By a comment on the evidence, I
19 mean some expression or indication from me as to my
20 opinion on the value of the evidence or the weight of
21 it. If it appears to you that I do comment on the
22 evidence you are to disregard that apparent comment
23 entirely.
24
25

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1 A. I am a full-time student at Clark College.

2 Q. What are you studying?

3 A. I just started last Monday so just basic classes.
4 I'm going for my A.A.

5 Q. Thank you. Do you know Christopher Thomas and
6 Timothy Delisle?

7 A. Yes.

8 Q. How do you know them?

9 A. Christopher Thomas is the uncle of my nine-month-old
10 baby.
11

12 Q. And, who is the father of your nine-month-old baby?

13 A. His brother, Zachary Scott Thomas.

14 Q. How long have you known them?

15 A. Over two years. I believe I met them in July/August
16 of '08.

17 Q. Do you know anybody who is currently sitting in this
18 room?

19 A. Um -- like, including you? Or, him?

20 Q. Who is him that you pointed to?

21 A. I believe his name is pronounced Deron. I've only
22 met him like three or four times total, though.

23 Q. Do you know his full name?

24 A. Because of the paper you gave me, Deron Anthony
25

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1 Q. Did you ever see the boys hanging out with the
2 defendant?

3 A. Yes.

4 Q. Okay. Where was that?

5 A. In the parking lot of Swift Skate Park, off of
6 Fourth Plain.

7 Q. What did you see?

8 A. I saw him passing around a blunt, which is weed
9 broken up and rewrapped in a Swisher Sweet.

10 Q. How do you know that was a blunt?

11 A. Because I was smoking it as well.

12 Q. And so, you are familiar with marijuana?

13 A. Yes.

14 Q. Okay. And, you have smoked marijuana before?

15 A. Yes.

16 Q. Are you familiar with the effects of marijuana?

17 A. Yes.

18 Q. So, this blunt being passed around, did it have the
19 effects that you were used to?

20 A. Um -- as far as I can tell it was normal. It was
21 regular. It wasn't laced or anything.

22 Q. And, when that happened, were all of the boys there?

23 A. No, it was just Matt Schneider, Zachary Scott Thomas
24
25

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1 be arriving tomorrow morning. If all goes well with
2 the itinerary, he should be here ready to go at 9 AM.

3 JUDGE JOHNSON: All right.

4 MR. McCARTY: Another person on my witness list was
5 Zachary Thomas. And, I suspect he just will not be
6 joining us, unfortunately. We were not able to
7 personally serve him. The last information I got
8 about him was that nobody knew where he was. So, I
9 don't expect he is actually going to be here. I was
10 expecting Officer Aldridge to be here this afternoon.
11 She received her subpoena over a month ago. I have
12 sent emails and left messages and I haven't gotten a
13 response, which is very unusual. So, I'm not sure
14 why she is not here but I will try to locate her and
15 have her first thing in the morning, if that is
16 acceptable to the Court. And that, I believe, would
17 be the end of the State's witnesses. Counsel and I
18 have talked about Officer Watkins. I believe we have
19 reached a stipulation regarding what would have been
20 her testimony.
21

22 JUDGE JOHNSON: All right. Do you have a written
23 stipulation?
24

25 MS. CLARK: We do have a written stipulation. I

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1 haven't had a chance to go through that with my
2 client but I think we can enter that onto the record
3 whenever the Court wants to.

4 JUDGE JOHNSON: All right.

5 MS. CLARK: This is -- I'll let you --

6 JUDGE JOHNSON: Well, my thought is then perhaps we
7 could bring the jury back in. I said we were taking
8 a recess so we will see if they are on a break, bring
9 them back in and read the stipulation and excuse them
10 until nine o'clock in the morning, it sounds like.
11 All right. Why don't you go over that and then, we
12 can just bring them back in. All right. Thank you.

13
14 (Court recesses on this matter at 3:27:12 PM.)

15 (Court reconvenes on this matter at 3:41:36 PM.)

16 JUDGE JOHNSON: All right. You wished to have a
17 stipulation read into the record. And, I have an
18 instruction that explains what a stipulation is.
19 And, other than that, we have no other witnesses
20 available today so we will start again at nine
21 o'clock in the morning, is that correct?

22 MR. McCARTY: Yes, Your Honor.

23 JUDGE JOHNSON: All right. And, I see that all
24 counsel and Mr. Parks have consented to the
25

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1 stipulation. All right.

2 (Bailiff escorts the jury into the courtroom.)

3 JUDGE JOHNSON: Members of the jury, evidence is
4 now to be presented to you by means of a stipulation.
5 A stipulation is an agreement between the parties as
6 to what the evidence would be if presented to you
7 through testimony or exhibits. This evidence is
8 entitled to the same consideration and is to be
9 judged as to credibility and weighed and otherwise
10 considered by you, insofar as possible, in the same
11 way as if a witness were testifying from the witness
12 stand.
13

14 And, the stipulation -- the stipulated facts are
15 as follows: On February 17th, 2009, Deron Parks
16 reported to Vancouver police officer Diana Watkins
17 that his home was burglarized and numerous items were
18 stolen. He reported that it occurred during the
19 night while he was at work. On February 18th, 2009,
20 Deron Parks reported to Officer Watkins that he had
21 suspect information. He reported that the suspects
22 were Scotty and Tim. He reported that they had been
23 to his house a couple of times. He reported that he
24 confronted Scotty and Tim at the Skateboard Park on
25

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1 Fourth Plain and they admitted to the burglary. On
2 February 17th, 2009, Officer Watkins spoke to a
3 neighbor of Deron Parks'. The neighbor reported
4 hearing glass break and then seeing two young males
5 leaving the home of Deron Parks. The neighbor told
6 police that he thought it was people Deron Parks knew
7 because he had seen the young males before.

8 And, that is the contents of the stipulation.
9 And, that concludes the evidence that will be
10 presented today. We are anticipating additional
11 testimony but that won't be ready for you until
12 tomorrow morning. So, I'm going to be excusing you
13 at this time for the evening. And, we need you to
14 return to the jury room by ten minutes before nine
15 o'clock in the morning, so 8:50 AM in the jury room.

16 Please keep in mind the instructions that I have
17 given you earlier. You are not to discuss the case
18 among yourselves or with anyone else. If friends or
19 family should ask you about your experience as a
20 juror or anything about the case, you are to tell
21 them that you are under the Court's instructions not
22 to discuss the case at this time. You will be freed
23 from that instruction after the jury has completed
24
25

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- 1 A. Seventeen.
- 2 Q. What is your date of birth?
- 3 A. 01/01/93.
- 4 Q. Where do you live right now, Chris?
- 5 A. I live in Spokane -- Excelsior in Spokane.
- 6 Q. What is Excelsior?
- 7 A. A treatment facility.
- 8 Q. What kind of treatment?
- 9 A. Like, some residential -- some CD.
- 10 Q. Okay. Why are you there?
- 11 A. Because I have a drug problem.
- 12 Q. Okay. How long have you been there?
- 13 A. I've been there four months, four-and-a-half months.
- 14 Q. Okay. And, Chris, I want to bring a few things out
- 15 just at the get-go. You have some criminal history?
- 16 A. Yes.
- 17 Q. Okay. Your most recent offense was an assault?
- 18 A. Yes.
- 19 Q. In 2009? In May?
- 20 A. Yup.
- 21 Q. And, you also have a conviction for taking a motor
- 22 vehicle without permission?
- 23 A. Yes.
- 24
- 25

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1 A. I don't.

2 Q. Okay. Do you recall, was it around the time of your
3 birthday?

4 A. Yes.

5 Q. Do you remember, was it before or after?

6 A. Right before.

7 Q. So, that would have been in December?

8 A. Yeah.

9 Q. And, do you know if that was December of 2009 or
10 2008?

11 A. I don't know. I don't remember. It could have been
12 eight.

13 Q. Well, if we're in 2010 right now, was it last
14 Christmas time?

15 A. No, I was in treatment. So, it was before that.

16 Q. 2008. Okay. Thank you. So, this particular time,
17 when you went to T's house, did any of your friends go
18 with you?

19 A. No.

20 Q. Did your brother go with you?

21 A. No.

22 Q. Why not?

23 A. I don't know. I don't know where he was.

24
25

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1 Q. At the same place?

2 A. Yeah.

3 Q. What was everybody doing when you got there?

4 A. Drinking.

5 Q. Drinking?

6 A. Yeah.

7 Q. Okay. Do you recall what people were drinking?

8 A. I don't. Could have been -- I think it was Busch.

9 I don't really remember.

10 Q. What did you do when you got there?

11 A. Drank.

12 Q. What did you drink?

13 A. Beer.

14 Q. Where did you get the beer?

15 A. D.

16 Q. I'm sorry, I couldn't --

17 A. D -- Deron.

18 Q. D. Deron. He gave that to you?

19 A. (Inaudible).

20 Q. Okay. Do you remember what kind of beer?

21 A. I think it was Busch or Busch Lite. I don't

22 remember.

23 Q. Cans or bottles?

24

25

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1 A. Cans.
2 Q. Okay. Do you know how many?
3 A. No.
4 Q. Do you remember how much you drank?
5 A. I drank? I don't. I don't remember.
6 Q. Did you have more than one?
7 A. Yeah.
8 Q. More than two?
9 A. Yeah.
10 Q. More than three?
11 A. Yeah.
12 Q. More than four?
13 A. (Inaudible).
14 Q. More than five?
15 A. Yeah, probably.
16 Q. More than six?
17 A. Yeah.
18 MS. CLARK: Objection to continued leading.
19 JUDGE JOHNSON: Overruled.
20 BY MR. McCARTY: (Continued.)
21 Q. Did you have more than seven?
22 A. I don't remember.
23 Q. Do you remember more than six?
24
25

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1 A. Yeah.

2 Q. Were you intoxicated?

3 A. Yeah.

4 Q. Had you been intoxicated before?

5 A. Yeah.

6 Q. So, would you say that you were drunk?

7 A. Yeah.

8 Q. Do you remember what you did while you were
9 drinking?

10
11 A. No.

12 Q. Was the TV on?

13 A. I don't remember.

14 Q. At some point, did you fall asleep or pass out?

15 A. I passed out.

16 Q. You passed out?

17 A. Yeah.

18 Q. Where did you pass out?

19 A. On the couch.

20 Q. In the living room?

21 A. Yeah.

22 Q. Can you describe your last memories before you
23 passed out?

24 A. I don't.

25

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1 Q. Do you remember who was still in the room with you
2 when you passed out?

3 A. D.

4 Q. Was anybody else still there?

5 A. (Inaudible).

6 Q. Do you have any idea what time it was when you
7 passed out?

8 A. No. No idea.

9 Q. What woke you up from being passed out?

10 A. Uh -- I woke up on the ground and I remember he was
11 on top of me. I was on my stomach and like, he was on top
12 of me and like, I moved and like, I don't even remember
13 what happened after that. He got up and, like, I went to
14 the bathroom and like, it was all weird and slimy and
15 then, I ran out the front door and then, ran home.

16 Q. Okay. What was weird and slimy, Chris?

17 A. My -- my butt.

18 Q. I'm sorry, can you say that again?

19 A. My butt.

20 Q. Okay. And, when you woke up, you said he was on top
21 of you?

22 A. Yeah.

23 Q. What was he doing?
24
25

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1 A. I don't really --

2 Q. What was he doing on top of you?

3 A. He had his penis on -- in my butt.

4 Q. Were you dressed?

5 A. Yeah.

6 Q. Okay. Were you wearing pants?

7 A. Yeah.

8 Q. Were they up or down?

9 A. Uh -- down.

10 Q. Did you pull them down?

11 A. No.

12 Q. Okay. Were you wearing underpants?

13 A. Uh -- yeah.

14 Q. Were they up or down?

15 A. Down.

16 Q. Did you pull them down?

17 A. (Inaudible).

18 Q. How far down were they?

19 A. To my thighs.

20 Q. And, you -- you already said it and described the
21 act but, Chris, can you specifically tell us what part of
22 his body was touching what part of your body?
23

24 A. His penis was touching my butt.
25

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1 Q. Was he inside you?

2 A. Yeah.

3 Q. Okay. Did you give him permission to do this?

4 A. No.

5 Q. Do you have any memory of him taking your pants
6 down?

7 A. No.

8 Q. Do you have any memory of when he started the sex
9 act?

10 A. No.

11 Q. Do you know if he was wearing a condom?

12 A. I don't.

13 Q. Do you know if he ejaculated?

14 A. I don't.

15 Q. Do you remember what it felt like?

16 A. I don't.

17 Q. Did it hurt?

18 A. Kind of.

19 Q. Were you in pain, at all?

20 A. I don't remember.

21 Q. Did you have any noticeable injury?

22 A. No.

23 Q. After you woke up and you started moving, what did
24
25

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1 he do?

2 A. I don't remember. I was still kind of out of it.

3 Q. You were still intoxicated?

4 A. Yeah.

5 Q. Okay. Did he say anything to you?

6 A. No.

7 Q. Did you say anything to him?

8 A. No.

9 Q. I know you said something about going to the
10 bathroom. Where was the bathroom compared to the living
11 room?
12

13 A. It's like right there.

14 Q. So, how far from the couch or the floor where you
15 were --

16 A. Two steps away.

17 Q. A few steps?

18 A. (Inaudible)

19 Q. Okay. When you woke up, could you see that it was
20 Deron Parks?

21 A. Yeah.

22 Q. Do you remember what he was wearing?

23 A. He was wearing a yellow-striped shirt, I think it
24 was a long-sleeved. Do you remember anything else he was
25

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1 wearing?

2 A. Huh-uh.

3 Q. Was that the same shirt he was wearing when you
4 first got there?

5 A. Yeah.

6 Q. How long were you in the bathroom?

7 A. A minute, probably less.

8 Q. What did you do while you were in there?

9 A. I went to the bathroom.
10

11 Q. Urinate or -- ?

12 A. Yeah.

13 Q. Okay. Then what did you do?

14 A. I walked out, looked around, didn't see nobody so I
15 opened the front door and then, I ran home.

16 Q. Okay. Was there enough light that you could tell
17 that nobody was there?

18 A. Yeah.

19 Q. Was it light or dark outside?

20 A. Dark.

21 Q. How far away was your home?

22 A. I don't know. Only like half-a-mile.

23 Q. Okay. Did you walk or run?

24 A. Run.
25

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- 1 A. I think she was asleep.
- 2 Q. Did you go to sleep?
- 3 A. I think so. I don't remember.
- 4 Q. Were you still intoxicated when you got home?
- 5 A. A little.
- 6 Q. That day after you got home, did you tell anyone?
- 7 A. No.
- 8 Q. Did you call the police?
- 9 A. No.
- 10 Q. Did you go see a doctor?
- 11 A. No.
- 12 Q. Can you tell us why not?
- 13 A. I don't know.
- 14 Q. Were you embarrassed?
- 15 A. Yeah.
- 16 Q. Were you scared?
- 17 A. Yeah.
- 18 Q. After that incident, did you see Deron Parks again?
- 19 A. Yeah.
- 20 Q. Can you tell us under what circumstances?
- 21 A. My -- one of my friends was there.
- 22 Q. At -- at where?
- 23 A. His house.
- 24
- 25

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1 Q. At Deron's house?

2 A. Yeah.

3 Q. Okay. So, did you go over?

4 A. Yeah.

5 Q. How long did you stay?

6 A. Not that long. I wanted to leave.

7 Q. Okay. Did you confront Mr. Parks about it?

8 A. Huh-uh.

9 Q. Why not?

10 A. I don't know. I was scared.

11 Q. Okay. Why did you go over there, even if you were
12 scared?
13

14 A. Because my friend wanted to go over there.

15 Q. Did you tell your friend what happened?

16 A. Not at the time.

17 Q. Do you remember which friend it was?

18 A. Tim Delisle.

19 Q. How long before you told somebody what happened?

20 A. I don't know. A couple of weeks.

21 Q. Who was the first person that you told?

22 A. Mariah.

23 Q. Mariah Flenory?

24 A. Yeah.
25

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1 Q. What was the purpose of driving by Mr. Parks' house
2 in that car?

3 A. I don't know. I didn't -- I wasn't driving. We --
4 we were in the neighborhood.

5 Q. Now, when you took this car, had you told Mariah
6 Flenory about what happened between you and Deron Parks?

7 A. Yeah -- I think so.

8 Q. Now, the only time, then, that you were in a house
9 with Mr. Parks was this night at this person named T's
10 house?

11 A. No. I was at somebody's buddy's house a few times.

12 Q. Whose house was that?

13 A. I have no idea.

14 Q. Okay. Where was this house?

15 A. Kind of downtown.

16 Q. And, Mr. Parks was there on these occasions?

17 A. Yes. Yes.

18 Q. And, did you ever go to Mr. Parks' house out on
19 Burton Road?

20 A. Yes.

21 Q. When was that?

22 A. I don't remember. A few times.

23 Q. Was it before or after this trip to California and
24

25

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1 the stolen car?

2 A. I don't remember.

3 Q. What was the purpose of going over to his house?

4 A. To smoke.

5 Q. Now, after you got back from California?

6 A. Yeah.

7 Q. You were in juvenile for a few days?

8 A. No. They took us to the police station on Fourth
9 Plain and then they had our parents come and get us.

10 Q. Do you recall a time when Mr. Parks came to the
11 Skate Park and confronted you and your friends about
12 burglarizing his house?

13 A. No. I wasn't there.

14 Q. You weren't present when he came and accused you
15 guys of breaking into his house on February 16th, 2009?

16 A. Nope.

17 Q. Do you know anything about the burglary at his
18 house?

19 A. I know the cops reported it to me.

20 Q. And, in fact, you knew who was involved in that
21 burglary, didn't you?

22 A. Somewhat. Yeah.

23 Q. And, you remember telling the police that it was
24
25

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Who ???

When ???

1 your brother and Tim Delisle?

2 A. Yeah.

3 Q. Okay. Were you present at the burglary?

4 A. No.

5 Q. Now, on October 1st, when Officer Aldridge came to
6 talk to you at Juvenile, you were in custody across the
7 street at the Juvenile Facility, right?

8 A. Yes.

9 Q. And, at that time, you were there on a probation
10 violation?

11 A. Yes, I think so.

12 Q. Okay. And, you were facing up to thirty days in
13 juvenile custody, at that point?

14 A. Yes.

15 Q. That's the first time you told anybody from law
16 enforcement what happened --

17 A. Yes.

18 Q. -- between you and Mr. Parks, isn't it?

19 A. Yes.

20 Q. So, approximately ten months after this was supposed
21 to have occurred?

22 A. Yes.

23 Q. Now, you -- at that point, you were on probation for
24
25

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1 both taking a motor vehicle and then, you got an assault
2 two charge -- second degree assault in May of 2009?

3 A. Yes.

4 Q. So, you face probation for both of those?

5 A. Yes.

6 Q. Now, Mr. McCarty, the prosecutor, asked you if this
7 could have happened in 2009. You said you were in
8 treatment in 2009.

9 A. Yes.

10 Q. Is that at the current treatment facility that
11 you're at?
12

13 A. No, I was in Seattle.

14 Q. So, that was a another treatment program?

15 A. Yes.

16 Q. And, you actually didn't complete that treatment and
17 had a probation violation, right?

18 A. Oh, I -- I completed it. I graduated.

19 Q. But, your probation officer -- you made a deal
20 basically to go into this current treatment program,
21 didn't you?

22 A. Uh -- yes. What do you mean a deal?

23 Q. Well, you --
24

25 MR. McCARTY: Objection, Your Honor. This is

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1 irrelevant.

2 JUDGE JOHNSON: Overruled.

3 BY MS. CLARK: (Continued.)

4 Q. Either you go serve time in juvenile probation on a
5 probation violation or you go to treatment, wasn't that
6 the deal?

7 A. Yes and no because I don't really remember. I
8 wanted treatment but I don't remember there being a deal.

9 Q. Are you on any medications today?

10 A. Yeah.

11 Q. What type of medication are you on?

12 A. Anti-anxiety.

13 Q. Do you take anything for attention deficit, also?

14 A. Huh-uh.

15 Q. Now, back on this night around your birthday in --
16 late 2008, early 2009, were you on any medications, at
17 that point?

18 A. No.

19 Q. Had you taken any drugs?

20 A. Oh, 2009?

21 Q. Yeah.

22 A. What type of drugs had you taken before you went
23 over to T's house that night?

24
25

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1 A. Hmm -- the night that it happened?

2 Q. Yes.

3 A. Actually, I wasn't on drugs that night. I think I
4 smoked some weed but I don't really remember.

5 Q. Wasn't part of the reason you went over to T's house
6 that night was because you had had an argument with your
7 dad?

8 A. No.

9 Q. Before you left for T's house, was Mariah Flenory
10 at your house?

11 A. Yes.

12 Q. And, your brother, Zachary Scott Thomas?

13 A. I think he was there. I don't remember.

14 Q. How old is Scott in comparison to you? Is he your
15 older brother or younger brother?

16 A. Younger brother.

17 Q. And so, you don't know if Scott was at your house
18 that night?

19 A. No.

20 Q. Do you know who else was at your house?

21 A. Mariah and my little cousin, Cameron Frank.

22 Q. Did you have anything to drink before you went over
23 to T's house?

24
25

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1 A. I don't remember. No, probably not.

2 Q. Where were you getting alcohol from, at that point?

3 A. What do you mean?

4 Q. When you were drinking you said sometimes it was
5 yours, sometimes it is other people's?

6 A. Yeah. I had people buy it for me.

7 Q. You had people buy it for you? Did you ever rip off
8 any of the convenience stores?

9 MR. McCARTY: Objection.

10 JUDGE JOHNSON: Counsel, the relevance? I'll
11 sustain the objection.

12 BY MS. CLARK: (Continued.)

13 Q. When Officer Aldridge came in to talk to you at
14 juvenile, you thought she was there to talk to you about
15 another criminal matter, didn't you?

16 A. No.

17 Q. The police never talked to you about the burglary,
18 did they?

19 A. Huh-uh.

20 JUDGE JOHNSON: I'm sorry. You need answer yes or
21 no.

22 MR. THOMAS: Uh -- no.

23 BY DEFENDANT (Continued.)

24
25

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1 Q. How many bedrooms does this house of T's have?

2 A. One that I recall.

3 Q. When you passed out on the couch, there were still
4 other people in the house, weren't there?

5 A. Yes.

6 Q. Now, you say you never had any conversation or never
7 said anything to Deron Parks that night after this is
8 supposed to have happened?

9 A. No.

10 Q. You indicated you were wearing kind of camo-type
11 pants. Were you wearing a belt that night?

12 A. I was wearing a -- it was like a stretchy shoe lace.

13 Q. I'm sorry?

14 A. It was like a shoe lace, kind of, for a boat.

15 Q. Okay. So, that was to keep the pants up?

16 A. Yeah.

17 Q. And, that was snug enough to hold them up?

18 A. Yeah.

19 Q. And, so you would have had to untie that?

20 A. Huh-uh. It was stretchy.

21 Q. And so, someone would have had to pull your pants
22 down?

23 A. Yeah. Yes.

24
25

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1 Q. And, were you on the couch or on the floor when this
2 was supposed to have happened?

3 A. Uh -- the floor.

4 Q. And, you don't remember getting to the floor? The
5 last thing you remember is being on the couch?

6 A. Yeah. Yes.

7 Q. Do you ever remember talking to Deron Parks about
8 helping him move, you and your friends?

9 A. I don't.
10

11 Q. How long after this incident at T's house was the
12 next time you saw Deron Parks?

13 A. I don't remember. I don't know.

14 Q. Was it before you went to California or after?

15 A. After I went?

16 Q. Yes.

17 A. I have no idea.

18 Q. You don't remember if it was before the car was
19 stolen and you went to California?

20 A. I think it was after. I don't know.

21 Q. Was Deron Parks' vehicle at T's house when you got
22 up the next morning?

23 A. No.

24 Q. Did Deron Parks have a dog?
25

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1 A. I don't know. No.

2 Q. Had you ever seen him run his dog over by the Skate
3 Park?

4 A. No, I never did.

5 Q. I have no further questions.

6 JUDGE JOHNSON: Any redirect?

7 MR. McCARTY: No further questions, Your Honor.

8 JUDGE JOHNSON: All right. Thank you. You may
9 step down. And, we have our next witness?

10 MR. McCARTY: Yes, Your Honor.

11 JUDGE JOHNSON: (To the witness.) And, if you would
12 step all the way across the courtroom there to the
13 ramp? Please raise your right hand to be sworn.

14 **OFFICER SANDRA ALDRIDGE**

15 was thereupon called as a witness and, having
16 been duly sworn on oath, was examined and testified
17 as follows:

18 **DIRECT EXAMINATION**

19 JUDGE JOHNSON: Please be seated. You will need
20 to move forward so you are close to the microphone
21 there. And, please state your name and spell it for
22 us.
23
24
25

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1 A. The reporting party was Ms. Thomas.

2 Q. Do you remember her first name?

3 A. Deborah.

4 Q. Okay. And, did she indicate to you where she lived
5 or where she was located?

6 A. Yes, sir. She stated she was in California.

7 Q. What was the general nature of her report?

8 A. She was wishing to report that her son, Chris, --

9 MS. CLARK: Your Honor, objection as to hearsay.

10 JUDGE JOHNSON: Well, I'll overrule just as to the
11 general nature of the report.

12 OFFICER ALDRIDGE: She was wishing to report that
13 her minor son, Chris Thomas, had been sexually
14 assaulted.

15 BY MR. McCARTY: (Continued.)

16 Q. And, did you ever speak to Christopher Thomas?

17 A. I did.

18 Q. When was that?

19 A. That same day.

20 Q. And, where did you speak to him?

21 A. He was in the juvenile detention center.

22 Q. Okay. Did you ever speak with other witnesses?

23 A. I did.

24

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DIRECT EXAMINATION

JUDGE JOHNSON: Please be seated. And, state
your name and spell your name for us.

DEFENDANT: Deron Parks. D-E-R-O-N P-A-R-K-S.

JUDGE JOHNSON: Thank you. And, go ahead, please.

BY MS. CLARK:

Q. Mr. Parks, how old are you?

A. Forty-two.

Q. How long have you lived in Clark County?

A. A little over ten years now.

Q. What type of work do you do?

A. I'm a CNA, Certified Nurse Assitant.

Q. Back in the Fall of 2008, do you remember, first of
all, where you were living at that time?

A. Yes.

Q. And, where was that?

A. I resided in the Salmon Creek area.

Q. Did you live with somebody at that time?

A. I did.

Q. And, who was that person?

A. That was my girlfriend of eight years, her three
kids and my two.

Q. Did something happen that that relationship ended

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1 that Fall?

2 A. We just kind of grew apart after the eight years and
3 I was looking to find a residence.

4 Q. Now, we have heard testimony about somebody named T,
5 do you know T?

6 A. Yes.

7 Q. Who was T?

8 A. He was a friend of mine that I had met while I was
9 living in the Salmon Creek area over the -- over the five-
10 year period there.

11 Q. Do you have any hobbies? Do you participate in
12 sports?

13 A. Yes, I play pick up basketball whenever I get a
14 chance to.

15 Q. And, when you say pick up basketball, what does that
16 mean?

17 A. Usually at the parks or open rec centers.

18 Q. Do you meet a lot of different people through that?

19 A. I do.

20 Q. How many times a week were you playing pick up
21 basketball, roughly?

22 A. Probably five times a week.

23 Q. So, you had a variety of acquaintances from that?

24
25

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1 A. Yes.

2 Q. Now, in the Fall were you looking -- of 2008, were
3 you looking for a new place to live?

4 A. I was.

5 Q. And, where were you looking?

6 A. Kind of all over the Vancouver area but I wound up
7 in the Burton area.

8 Q. During that time did you meet the young man that
9 just testified, Christopher Thomas?

10 A. Yes.

11 Q. Where did you meet him?

12 A. That was at the Skate Park.

13 Q. What were you doing at a Skate Park?

14 A. I have a dog that I like to take out and run so I'm
15 -- I was there with him.

16 Q. And, did you meet anybody else associated with Mr.
17 Thomas?

18 A. Yes, his brother, Scotty, and Timothy.

19 Q. Did you play basketball with any of those young men
20 at any time?

21 A. No, I didn't.

22 Q. Where would you see them other than the Skate Park?

23 A. That was pretty much it. Just at the Skate Park
24
25

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1 when I was with my dog.

2 Q. How many times do you think you saw him there at the
3 Skate Park?

4 A. What, through the weeks, maybe?

5 Q. I'm sorry.

6 A. Are you asking weekly or --?

7 Q. How many times total?

8 A. Had I seen them there?

9 Q. Yes. Your best guesstimate.

10 A. I'd say in a month's time, maybe four or five times
11 out of the month.

12 Q. Did you ever see them at T's house?

13 A. I have.

14 Q. Who did you see over at T's house?

15 A. It was generally just Scotty and Tim.

16 Q. Did you ever see Christopher at T's house?

17 A. I can't recall ever really seeing him there.

18 Q. Do you recall asking these young men to help you
19 move at some point?

20 A. Yes, I did.

21 Q. Can you tell who -- first of all, who you asked and
22 what the plan was?

23 A. I had asked -- well, they kind of knew that I was in
24
25

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1 the process of moving or looking for a place to live and
2 there was a discussion that came up with Scotty, Tim and
3 Chris. I just thought maybe they could use the extra
4 money if they could give me a hand moving some of my
5 belongings.

6 Q. Did they ever come to any place you lived to discuss
7 that?

8 A. Actually, -- I actually took them by my house in
9 Salmon Creek just to kind of give them an idea of what I
10 was moving and I had my dog with me so I was dropping him
11 off at that time, too.

12 Q. And, did they help you move?

13 A. No, they didn't.

14 Q. Did they ever come over to -- did -- did you move,
15 first of all?

16 A. Yes, I did.

17 Q. Who helped you move?

18 A. I had a few other friends help me move.

19 Q. And, where -- where was it you moved to?

20 A. 86th and Burton.

21 Q. That residence on Burton, were any of these young
22 men over to that house?

23 A. Yes, they were.
24
25

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1 Q. Do you recall approximately when that would have
2 been?

3 A. From -- I moved there in February and they were
4 there February, March up until the burglary.

5 Q. So, if the burglary was reported February 16 --

6 A. Right.

7 Q. How often had they been there?

8 A. I'd say at least five or six times.

9 Q. What was the purpose of them coming over?

10 A. Well, I had just moved there and there was some work
11 needed to be done, yard work, per se. And, I thought
12 maybe they could use the extra money to help them out and
13 so I had asked them.

14 Q. Now, at that time, where were you working?

15 A. I was working for Elfin Services. It's a temporary
16 service working with a quadriplegic gentleman.

17 Q. And, that was working as a nurse's aid?

18 A. Yes.

19 Q. What time of day or night were you working? Did you
20 have a shift?

21 A. I did. I was working seven in the evening until
22 seven in the morning.

23 Q. Is that pretty typical for you to work graveyard?

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1 A. Yes, I prefer graveyard shifts.

2 Q. And so, at that point, you are going to work at 7
3 PM, is that fair?

4 A. Yes.

5 Q. Now, the night -- a burglary happened at your house,
6 first of all?

7 A. Yes.

8 Q. You reported that to law enforcement?

9 A. Yes, I did.

10 Q. In the middle of February. Do you remember anything
11 about that day that led up to the burglary?

12 A. Well, I was at work and I received a phone call
13 from, I believe, it was Timothy and he was asking was I
14 home or --

15 MR. McCARTY: Objection. Hearsay.

16 MS. CLARK: Without going into what he said. So,
17 you did talk to Timothy that day?

18 DEFENDANT: Yes, I did.

19 BY MS. CLARK: (Continued.)

20 Q. When you got home the next morning, what did you
21 discover?

22 A. I discovered my house was broken into.

23 Q. What items were taken, in general?

24

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1 A. I had a Bose surround system and I collected
2 watches.

3 Q. And, you reported this to the police?

4 A. Yes, I did.

5 Q. Now, later that day, what did you do regarding that
6 burglary?

7 A. After the interview with the police and my neighbor,
8 I went to the Skate Park based on the information given by
9 my neighbor and I confronted the gentlemen there.

10 Q. Who did you confront?

11 A. Timothy, Christopher and Scotty.

12 Q. What was Christopher's reaction?

13 A. They all denied it at first. Everyone was stunned
14 that -- that I knew who it was.

15 Q. Did Christopher make any threats toward you if you
16 reported this or reported him?

17 A. Yes, I was told I will be -- they will mess up my
18 life if I report the burglary is what the words were.

19 Q. After that, did you have any further contact with
20 law enforcement about the burglary case?

21 A. Not at all. Nothing ever came back to me as far as
22 the information I had given them.

23 Q. Did you see Christopher or Timothy or any of these
24
25

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1 young men after that?

2 A. No, I didn't.

3 Q. Now, going back to late December 2008, do you
4 recall, at any point, being at T's house when Chris was
5 there celebrating his birthday?

6 A. Yes, I do.

7 Q. Can you describe what happened that evening?

8 A. Well, we were there, me and T, they refer to him as
9 T, it's Tyler. We were there with a few other gentlemen
10 and their girlfriends. We were just kind of -- I was
11 actually having to meet with the landlord of the new house
12 the next day. So, we were just kind of just partying a
13 little bit. You know, a little excited about the new move
14 and I --

15
16 Q. So, when you say you were partying, what were you
17 guys doing?

18 A. Playing dominoes, listening to music and drinking a
19 few beers.

20 Q. Were you doing any drugs?

21 A. No drugs.

22 Q. How did Christopher come to be there that night?

23 A. I believe he called and was asking to hang out or --
24 yeah, I believe that's the words. He just wanted to hang
25

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1 out.

2 Q. Did he come over that evening, then?

3 A. He did.

4 Q. About what time did he come over?

5 A. It was around 8:30.

6 Q. Did he drink any alcohol at the house?

7 A. Not to my knowledge.

8 Q. Did you offer him any alcohol?

9 A. No, I didn't.

10 Q. How -- this house of T's, how big is it?

11 A. It's probably about 900 square feet.

12 Q. Pretty tiny.

13 A. Yeah, it's a pretty small space.

14 Q. Do you know how many bedrooms it has?

15 A. It has one upstairs, a bathroom and then, through
16 the kitchen there is a basement that leads to another
17 bedroom.
18

19 Q. And, the main floor is basically kitchen and living
20 area?

21 A. Kitchen, living room, bathroom and one single room.

22 Q. What time did you leave T's residence that evening?

23 A. I left T's around 10:30, 11 to head to a bar to
24 shoot some pool.
25

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1 Q. Who was at T's house at the time you left?

2 A. It was T, his girlfriend, Jeremiah and I believe,
3 Christopher -- another guy named Chris.

4 Q. And, was Christopher -- Christopher Thomas still
5 there at that time?

6 A. Yes, he was.

7 Q. When you left, where were people in the house?

8 A. They were still in the living room.

9 Q. Was Christopher Thomas still up and about or was he
10 sleeping or --?

11 A. Yes, he was still awake. He seemed a little quiet.
12 We really didn't remember him even being there, he was so
13 quiet when he was there. But, he was still awake at the
14 time I left.

15 Q. Where did you go from T's house?

16 A. I went to a bar to shoot some pool.

17 Q. What did you do after that?

18 A. I went home because I had to be up in the morning to
19 meet the landlord.

20 Q. What did you do the next morning?

21 A. I went by T's house.

22 Q. What time would that have been, roughly?

23 A. It would have been roughly around 10:30.

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1 Q. So, well into the morning?

2 A. Yes.

3 Q. Were you -- between the time you left and the time
4 coming back at 10:30, were you at T's house anywhere in
5 the middle there?

6 A. No.

7 Q. Did you ever have any type of sexual contact with
8 Christopher Thomas?

9 A. No, I didn't.

10 Q. Thank you. No further questions.

11 JUDGE JOHNSON: And, cross-examination?

12 **CROSS-EXAMINATION**

13 BY MR. MCCARTY:

14 Q. So, Mr. Parks, you met Christopher Thomas, Scotty
15 Thomas and Tim Delisle at the Skate Park?

16 A. Yes.

17 Q. Okay. Isn't it true that that particular location
18 is a -- is a place where mostly teenage boys hang out?

19 A. Not to my knowledge. It's all ages.

20 Q. And, you said you would hang out with them there at
21 the park?

22 A. Well, I was there to run my dog and they were pretty
23 much there.

24

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1 Q. If you were running your dog, were they running the
2 dog with you?

3 A. They would come up and pet my dog and -- and talk
4 for a little bit. Yes.

5 Q. And so, you said there were four or five different
6 times that you hung out with the boys at the park?

7 A. Probably so, yes.

8 Q. And you mentioned that you had seen the boys at T's
9 house a few times.

10 A. Yes, sir.

11 Q. How many different times did you see the boys at T's
12 house?

13 A. Probably about four or five different times,
14 different occasions.

15 Q. And, you said they came to your old house?

16 A. Old house as being the one in Salmon Creek?

17 Q. The one in Salmon Creek.

18 A. Yeah, briefly.

19 Q. Just once?

20 A. Yes.

21 Q. And, they also came to the new house near Burton
22 Road?

23 A. Yes, they did.

24
25

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1 Q. How many times was that? I believe you said, five
2 to six times?

3 A. Yes, sir.

4 Q. So, in total, there appear to be fifteen, sixteen,
5 seventeen different times that you would hang out with
6 these teenage boys?

7 A. Not so much hang out, just probably in their
8 presence.

9 Q. During this timeframe, you stated you had a job as a
10 CNA?

11 A. Yes, sir.

12 Q. And, that was a temporary job?

13 A. It was a temporary agency but I've been there for
14 over five years.

15 Q. Temporary agency. Okay. So, were you paid hourly?

16 A. Yes.

17 Q. How much were you paid?

18 A. \$12.50 an hour.

19 Q. You stated that you had the boys do yard work for
20 you at the new house?

21 A. I asked them if they would like to do yard work. It
22 never -- never happened.

23 Q. They were there five or six times and never did any
24

25

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1 burglary?

2 A. Yes, that was -- yeah.

3 Q. And, you are stating that that specifically includes
4 Christopher Thomas?

5 A. What do you mean by that question? Did he say that?

6 Q. Yes.

7 A. I can't remember who exactly said it but it was --
8 it was said. They were all in agreement to it. So --
9 yeah.

10 Q. Now, you said you remember being at T's house in
11 late 2008 and you said you remember celebrating Chris'
12 birthday?

13 A. I don't know what the -- if it was his birthday. I
14 have no idea.

15 Q. And, you said that Chris called asking to hang out?

16 A. Yes.

17 Q. Did Chris call you?

18 A. Yes.

19 Q. So, Chris had your cell phone?

20 A. He had my cell number, yes.

21 Q. Did the other boys have your cell phone number?

22 A. Oh, they probably all knew it just from being around
23 each other, I'm sure.
24
25

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1 Q. Why did the boys have your cell phone number?

2 A. Well, at that time, I was needing some help moving
3 so I -- they -- they had -- they were able to contact me.

4 Q. Did you provide your cell phone number?

5 A. I'm sure I did. Yes.

6 Q. Now, the burglary occurred February of 2009,
7 correct?

8 A. Yes.

9 Q. And, you state that the boys, that next day,
10 threatened to get you back?

11 A. Yes, when I confronted them that my neighbor seen who
12 it was. Yes.

13 Q. Then, months and months go by and nothing happens
14 with the burglary case, correct?

15 A. Still nothing has happened.

16 Q. And, months and months, nearly eight months later
17 and then, out of the blue comes this report?

18 A. Definitely.

19 Q. And, you are saying that that was their plan to get
20 you back?

21 A. That's the words they used. Yes.

22 Q. Mr. Parks, isn't it true that you have a prior
23 conviction for theft in the third degree?
24
25

Handwritten:
Bingo
Check
Thief
Serious

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1 A. Yes, sir.

2 Q. And, that conviction was from earlier this year?

3 A. Yes.

4 Q. One moment, please, Your Honor? Thank you. I have
5 no further questions.

6 JUDGE JOHNSON: Any redirect?

7 MS. CLARK: Nothing further, Your Honor.

8 JUDGE JOHNSON: All right. Thank you. You may
9 step down. (Witness leaves the stand.) Any further
10 witnesses for the defendant?

11 MS. CLARK: The defense rests, Your Honor.

12 JUDGE JOHNSON: And, any rebuttal?

13 MR. McCARTY: Your Honor, if I could have a brief
14 moment, I may want to offer a rebuttal witness.

15 JUDGE JOHNSON: All right. Let's take our morning
16 recess at this time. Members of the jury, you may
17 step back to the jury room, at this time.

18 (Bailiff escorts the jury out of the courtroom.)

19 JUDGE JOHNSON: All right. We will take our
20 recess. We will be fifteen minutes.

21 (Court recesses on this matter at 10:12:11 AM.)

22 (Court reconvenes on this matter at 10:33:46 AM.)

23 JUDGE JOHNSON: Excuse me, just a minute. (The
24
25

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1 the jury room. You must fill in the blank provided
2 in each verdict the words "not guilty" or the word
3 "guilty", according to the decision that you reach.
4 Because this is a criminal case, each of you must
5 agree for you to return a verdict. When all of you
6 have so agreed, fill in the verdict forms to express
7 your decision. The presiding juror must sign the
8 verdict forms and notify the bailiff. The bailiff
9 will bring you into court to declare your verdict.
10

11 And then, you are provided verdict forms for
12 Count 1 and Count 4. And, we will now hear closing
13 argument of Counsel. Please give your attention
14 first to Mr. McCarty, on behalf of the Plaintiff,
15 State of Washington.

16 **CLOSING ARGUMENT - STATE**

17 MR. McCARTY: Thank you, Your Honor. Ladies and
18 Gentlemen, as I said yesterday in my opening
19 statement, we are here because Deron Parks befriended
20 some teenage boys, hung out and partied with them and
21 then, waited for his opportunity. And that is why
22 Christopher Thomas was raped.

23 I, as the prosecutor, am here representing the
24 State today. And, as that person, I have the burden
25

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1 of proving these charges to you beyond a reasonable
2 doubt. So, by all means, hold me to that burden. If
3 you feel that the State has not proven its case, then
4 you should do what your duty is, and that's to
5 acquit.

6 However, you have an equal duty to convict if the
7 State has proven the elements of these charges and
8 that's what I'm asking you to do, if the State has
9 proven the elements of these charges.

10 And, to prove the elements of rape in the second
11 degree to you, that between December 1st and December
12 31st of 2008, in the State of Washington, that Deron
13 Parks engaged in sexual intercourse with Christopher
14 Thomas, that Christopher Thomas was incapable of
15 consent by reason of being physically helpless or
16 incapacitated.

17 You will note in the instruction it said C.A.T.,
18 the initials C.A.T. and to avoid any confusion, that
19 is the initials for Christopher Thomas, if anybody
20 was wondering.

21 The second charge is the furnishing liquor to a
22 minor in the same date range, Clark County,
23 Washington that the defendant provided liquor to a
24
25

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1 person under twenty-one.

2 You heard from Christopher Thomas, when he took
3 the stand and talked to you today and told you about
4 what happened. Everything he described meets the
5 elements of these crimes. He met the defendant at
6 the Skate Park. He would hang out with him. His
7 brother, his friends would hang out with him. They
8 would party. Sometimes went to the defendant's
9 house, sometimes would go to T's house. And then,
10 Chris made the mistake of going one night, by himself
11 without his friends, without his brother, and he went
12 over to T's house to hang out with D and to drink and
13 party with D. And, when he got there, D had beer
14 there waiting for him. And, he has as much as he
15 could handle. He doesn't remember exactly how much,
16 at least six beers, and he got intoxicated, he got
17 drunk and he passed out. He passed out on the couch
18 in the living room. And, he has no further memories
19 until he wakes up and he is being anally raped by the
20 defendant. He wakes up on the floor and the
21 defendant is having sex with him.
22

23 Now the defense seems to be that this didn't
24 happen, that Christopher and these boys just made
25

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1 this up. Made it up to get back at Mr. Parks, but
2 for what he said, there are a lot of sensory details
3 that would have gone into that story. The things
4 that Chris told you, the things that he remembers.

5 He remembers what the defendant was wearing,
6 specifically. When he got there he was wearing the
7 yellow and white striped shirt. The next morning,
8 when he wakes up being raped, he remembers,
9 specifically, Mr. Parks wearing that same yellow and
10 white striped shirt. He remembers specifically what
11 he was wearing. He was wearing the camouflage pants
12 with a -- with an elastic shoelace as a belt to hold
13 them up. An elastic shoelace that -- so somebody
14 didn't actually have to undo it to pull down his
15 pants.
16

17 He remembers that it felt slimy. And, what a
18 gross and graphic detail to specifically remember.
19 And, what a gross and graphic detail to make up to
20 try to get somebody into trouble.

21 He remembers going to the bathroom. He remembers
22 running home in the dark. He remembers running home
23 with no jacket when it was cold and icy in the middle
24 of winter.
25

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1 And, you heard from Mariah Flenory who actually
2 remembers the same incident, maybe at the time not
3 knowing that it was an incident at all. But, she
4 remembers Christopher going over to T's house on his
5 own without his brother, without his friends. She
6 remembers him going over there late at night to go
7 party.

8 And, she remembers him coming back the next day.
9 She remembers seeing him. Mariah also told you that
10 she remembers, starting at that time, a change in
11 Christopher's behavior. He wasn't the same person
12 anymore. He had a different attitude. Something
13 changed, something affected him and she noticed and
14 she was his best friend.

15 She also described when he told her several weeks
16 later. She told you about his demeanor when he
17 finally told her. And, he didn't want to tell her.
18 He was reluctant to tell her, that he was emotional,
19 he was upset, he was near tears and he was angry.
20 All of that is consistent with somebody that has gone
21 through that kind of experience.

22 So, the defense seems to be this -- this didn't
23 happen. Chris and his friends made it up to get back
24
25

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1 at Deron Parks. So, I'm not sure what you all think
2 of Christopher Thomas. You guys get to be the sole
3 judges of credibility. You get to judge the
4 credibility of Christopher Thomas and Deron Parks and
5 everybody else that you heard from.

6 You might think that Chris is a little skater
7 punk, a little criminal, a little hooligan. He's a
8 little druggie, always in trouble. You might think
9 that and it is okay to think that. He has kind of
10 proven that with his history. But, I would ask you
11 to remember that in what he told you there are a lot
12 of specific details that would be awfully hard for
13 somebody to make up. And, a lot of that was
14 corroborated by Mariah.

15
16 Christopher Thomas did some really stupid things.
17 He befriended a forty-two-year-old man that he met at
18 the Skate Park and started hanging out and partying
19 with this older man. He accepted booze from this
20 older man. He made a really dumb mistake when he
21 went to T's house without his brother, without his
22 friends. He went by himself to go party with these
23 men that he barely knew. He made the mistake of
24 accepting beer, drinking, getting drunk, passing out
25

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1 on the couch at this place that he didn't really
2 know, without his friends there, without his brother
3 there to watch out for him. He did a lot of really
4 stupid things.

5 But, the fact that he made those bad decisions and
6 did those stupid things does not mean that he
7 deserved to have what happened to him happen to him.

8 The fact that he made a lot of bad of decisions,
9 the fact that he has been in a lot of trouble and the
10 fact that he has done those things -- it doesn't mean
11 that he is not entitled to justice. And that is what
12 I'm asking for today. Thank you.

13
14 JUDGE JOHNSON: And, please give your attention now
15 to Ms. Clark who will give closing argument on behalf
16 of the defendant.

17 **CLOSING ARGUMENT - DEFENSE**

18 MS. CLARK: Thank you, Your Honor. Ladies and
19 Gentlemen of the jury, you have heard the evidence in
20 this case. This -- we are here today on the strength
21 of an allegation made by Christopher Thomas. That
22 allegation is really supported by nothing else.

23 Your job is really all the more difficult because
24 this allegation wasn't reported for at least ten
25

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1 months after the fact that it allegedly happened.

2 You need to look carefully at all the facts and
3 circumstances in the case. And, for twenty-five
4 years, I have stood in front of juries and said
5 similar things in similar cases as to what the burden
6 of proof is. One thing you must remember is that the
7 State bears the burden of proof of these charges
8 beyond a reasonable doubt.

9 Mr. Thomas chose not to report this. The reason,
10 I would submit to you that he did that is because he
11 waited until he needed to get out of trouble. Look
12 back at February of 2009. Mr. Thomas admitted to you
13 today that he, his brother, Scotty, Tim Delisle,
14 Cameron Frank and a guy named Bryce, stole a vehicle
15 and drove down to California. They are apprehended
16 down there and they are returned to Vancouver and a
17 week later, I would submit to you, these guys are out
18 there burglarizing Deron Parks' house.

19 One of the difficult things when you are sitting
20 on the jury is that these people may not have the
21 lifestyle that you have. These are kids that hang
22 out at a Skate Park. Mr. Parks is somebody who
23 works, plays basketball, has a lot of different
24
25

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1 acquaintances throughout the community.

2 What is happening here is that these kids saw an
3 opportunity. They are drinking and doing drugs all
4 the time. They are getting money for that somewhere.
5 They see the opportunity to burglarize Mr. Parks'
6 house and they see the way to get out of trouble for
7 doing that. They are confronted, Mr. Parks
8 immediately reports it, you have the stipulation that
9 he reported it to Officer Watkins, that the neighbor
10 heard the glass break. Clearly, the burglary
11 happened. The neighbor describes suspects. Once Mr.
12 Parks talks to that neighbor, he goes down to the
13 Skate Park and confronts these guys and, uh-oh, he
14 figured it out. And they start telling him, "Hey,
15 we're going to get you. You don't report it or we
16 will get back at you." Well, you know what? It
17 worked, because law enforcement never talked to any
18 of these young men about it. And, the first time
19 that anything happens is in October.
20

21 Mr. Thomas told you, when he is at juvenile on a
22 probation violation, in trouble yet again, on
23 probation at that point for both the stolen car and
24 the assault he commits in May. He is in trouble with
25

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1 his P.O. A police officer comes. He says, he is kind
2 of looking like what did I do now? Thinking that he
3 is in trouble for something. Well, you know what?
4 That's a good time to report a horrific allegation
5 because this is the type of allegation when you hear
6 it, you're horrified. When you hear it, the strength
7 of that allegation alone makes you think it's awful.
8 If it happened, it is awful but it is a tool here for
9 him. It gets him out of trouble for the burglary, it
10 gets him out of trouble with his mom, it is something
11 that he used. And, he used it very effectively.
12

13 You know, you wait ten months -- if you had
14 reported this -- if it really happened, there would
15 have been physical evidence. There would have been
16 physical injury. A physical examination would have
17 shown that. There are none of those things.

18 You also have ten months later where the State
19 can't produce the witnesses. Didn't produce the
20 witnesses for you that were at the home. I would
21 submit to you that the reason is because, with ten
22 months time passage, those people aren't around.

23 So, look at all of the evidence very carefully.
24 Who has the motive to be untruthful with you here
25

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1 today? Why would Mr. Parks do this? I would submit
2 to you that what has been established here is that
3 the defendant had a casual acquaintance with these
4 young men, offered an opportunity to help him move,
5 that this relationship was really very limited in
6 that these were kids that were around. Looking back,
7 you know, almost two years after the fact, you're not
8 going to remember a lot of details of the night at
9 T's house because nothing happened that night to make
10 it something you would remember.

11
12 Take a very careful look at all of the evidence.
13 And, the Judge has instructed you that the State
14 bears the burden of proof beyond a reasonable doubt.
15 That means that you have to have an abiding belief
16 that those charges -- that -- that this offense
17 happened and if you don't have that, if you have a
18 reasonable doubt of that, and that can arise from the
19 evidence or the lack of evidence in this case, it is
20 your duty to find Mr. Parks not guilty.

21 And, I would submit to you that that is what the
22 evidence shows in this case. Thank you.

23 JUDGE JOHNSON: And, because the State bears the
24 burden of proof, the State also has the last
25

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1 opportunity to address you in a rebuttal argument.

2 **REBUTTAL CLOSING ARGUMENT - STATE**

3 MR. McCARTY: So, again, the defense is that this
4 didn't happen and that Christopher Thomas made it up
5 and he made it up to get out of trouble. But, what
6 we heard today is he really didn't get out of much
7 trouble. He is still, right now, in an inpatient
8 treatment facility as part of his probation. It
9 certainly didn't get him out of -- out of that
10 trouble.
11

12 Did it get him out of a burglary? Well, he told
13 you he wasn't involved with it. Maybe his brother
14 and his friend were. They might have been. We don't
15 really know. Might have been.

16 But, ask yourselves what -- what makes more sense
17 here, that Christopher Thomas is some kind of a
18 criminal mastermind and he concocted this entire
19 story and coordinated the way things played out so
20 that he could get back at Deron Parks for reporting a
21 burglary that he says he wasn't involved in? That --
22 that this came through a police report that didn't
23 come from Christopher Thomas. Chris didn't report
24 this to the police. He never called the police. He
25

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1 never called the doctor or the police. His friends
2 didn't. His mother did, some eight months after this
3 burglary occurred. You heard from Mr. Parks himself
4 that nothing had happened with that burglary case, no
5 investigation, no -- no suspects, no anything had
6 happened with that case.

7 And so, are we to believe that Christopher Thomas,
8 that teenage boy that sat in front of you this
9 morning, was so intelligent that he came up with this
10 plan on his own? That he could make criminal charges
11 happen by never reporting it? That he would just
12 tell his friend, Mariah, and that somehow he knew or
13 would get her to help him with passing along this
14 story so that his mom would report it ten months --
15 excuse me, eight months later? Is that what makes
16 the most sense here?

17 Or, does it make sense that Deron Parks did what -
18 - what we have said that he did? That Deron Parks
19 knows what he likes sexually, that he knew where to
20 go and try to get it? Is it coincidence that he
21 strikes up this friendship with -- with not just
22 teenage boys but a specific type of teenage boys? He
23 goes to the Skate Park in a not so great neighborhood
24
25

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1 and finds kids that are in trouble, in trouble with
2 the law, kids that have criminal convictions, they
3 use drugs and alcohol. He finds the weak, troubled
4 kids and waits for his opportunity. So, what makes
5 more sense to you?

6 Why does a forty-year-old man hang out with
7 teenage boys over and over and over? Hang out and
8 party with teenage boys over and over and over?

9 Ladies and Gentlemen, I thank you for your time.
10 And, again, I would ask that you give justice to
11 Christopher Thomas. Thank you.
12

13 JUDGE JOHNSON: Thank you, Counsel. And, Members
14 of the jury, at this time, you may step back to the
15 jury room. Take your notes with you. And, Ms.
16 Robillard, I will ask that you -- excuse me -- step
17 aside for just a minute and I will give you further
18 instructions.

19 JUROR: Okay.

20 JUDGE JOHNSON: Why don't you have a seat up in the
21 chair there?

22 (Bailiff escorts the jury out of the courtroom.)

23 JUDGE JOHNSON: And, Ms. Robillard, as you know,
24 you were selected as the alternate juror. That is to
25

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1 consider and probably most importantly is just simply
2 the effect of this type of crime on the -- on the
3 victim.

4 If Your Honor recalls, Christopher Thomas was
5 brought down for trial from an inpatient treatment
6 facility up in the Spokane area. He was on
7 supervision with the juvenile department here and
8 they had sent him up there to see if they could
9 address his drug problem. And, I recall testimony
10 from -- from his friend that she had noticed how
11 Christopher -- from the time of this incident, even
12 though she didn't yet know what it was that had
13 happened, she had noticed dramatic changes in him and
14 his personality and behavior. And, she talked about
15 how that was really just the start of this downward
16 spiral for him in terms of his behavior, in terms of
17 really beginning to abuse drugs and alcohol.

18 And, I -- I learned something subsequent to the
19 trial when I tried to contact Christopher Thomas at
20 the treatment facility. I spoke with his treatment
21 counselor and then, followed up with this juvenile
22 counselor, but Christopher, when -- after the trial
23 when he returned to treatment he had a relapse and he
24
25

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1 basically ran away from that treatment facility and
2 started using again. He was found one evening
3 shortly after leaving the facility. He stumbled into
4 a -- I believe it was a Walmart or a Walgreens
5 covered in blood and high as a kite. He had
6 relapsed, started using methamphetamine and walked in
7 and he had stab wounds in his arms and legs. And,
8 police were never able to determine if those were
9 self-inflicted or inflicted by someone else. He was
10 so high, at the time, he -- he had no recollection of
11 how he even obtained his wounds. The reason I bring
12 that up is -- is I think it reminds us of -- for one,
13 the secondary trauma that victims go through when
14 they have to go through this whole process of a
15 prosecution, being involved in interviews and going
16 through the stress and anxiety of -- of getting ready
17 for trial and then, appearing at trial in front of
18 the person that victimized you. And, it seems clear
19 to me that that whole process is a big part of what
20 triggered that relapse for Christopher.

21
22 And, again, I think it is a reminder to all of us
23 on the long-term effects of a crime like rape, the
24 long-term effects that that has on the life of the
25